

Board Agenda Item  
July 26, 2006

## **ADMINISTRATIVE - 1**

### Resolution Honoring Nancy L. Brumit upon her Retirement from the Park Authority

#### ISSUE:

Approval of a resolution to honor the service and accomplishment of Mrs. Nancy L. Brumit upon her retirement from the Park Authority.

#### RECOMMENDATION:

The Park Authority Director recommends approval of this resolution honoring Mrs. Nancy L. Brumit upon her retirement from the Park Authority.

#### TIMING:

Board action is requested on July 26, 2006.

#### BACKGROUND:

Nancy Brumit has played a significant role as Secretary to the Fairfax County Park Authority Board since her arrival in 1988. Nancy has consistently maintained high levels of professional standards in her support to Board members. She began her tenure with the Park Authority in 1988 when she came to the Park Authority from the Fire Department, and for the past 18 years has played an instrumental role in maintaining positive changes in Board support procedures, record keeping, and streamlining efforts.

Nancy Brumit has made a lasting contribution to the Park Authority through her support to the Park Authority Board and Director's Office. She will be missed by her co-workers and colleagues.

#### FISCAL IMPACT:

None

#### ENCLOSED DOCUMENTS:

Attachment 1: Resolution

Board Agenda Item  
July 26, 2006

STAFF:

Michael A. Kane, Director

Timothy K. White, Chief Operating Officer

Leslie Amiri, Director, Human Capital Development and Services

Judy Pedersen, Public Information Officer

**WHEREAS**, Nancy Brumit has played a significant role as Secretary to the Fairfax County Park Authority Board since her arrival from fire services in 1988 and during her 18-year tenure with the Park Authority has been instrumental in making positive changes in procedures, record keeping, organization, and streamlining efforts; and,

**WHEREAS**, Nancy Brumit worked hand-in-hand with the agency director on a number of vital projects and on her own initiative, identified the lack of copies of original minutes from meetings of the past 40 years and organized a project to copy the minutes, preserve originals, and provide for off-site storage; and,

**WHEREAS**, Nancy Brumit worked with the National Society of Daughters of the American Revolution to plan ceremonies for the placement of a commemorative marker at Historic Huntley, and supported many other special projects and events over the years, in addition to quickly adapting to changes in technology such as the change from Wang word processors to computers; and,

**WHEREAS**, Nancy Brumit has maintained high professional standards in her support of Board members and provision of outstanding professional services, always remaining cheerful and dedicated and seeking new ways to better serve the Park Authority Board members and fellow staff throughout the agency; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Fairfax County Park Authority Board that it expresses appreciation and thanks to

## ***Nancy Brumit***

*for dedicated and outstanding contributions to the Park Authority and the citizens of Fairfax County.*

*Adopted by the Fairfax County Park Authority Board on July 26, 2006*

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*Frank S. Vajda*  
*Secretary-Treasurer*

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*Harold L. Strickland*  
*Chairman*

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## **ADMINISTRATIVE - 2**

### Approval - Request for Land Dedication for SEA 80/LV-061 Overlook Ridge/Lorton Debris Landfill (Mount Vernon District)

#### RECOMMENDATION:

The Park Authority Director recommends approval of the following summary comments regarding SEA 80/LV-061 Overlook Ridge/Lorton Debris Landfill:

- The Park Authority requests that the applicant proffer to dedicate the entire 250-acre subject property to the Park Authority for public park purposes when the landfill is completely closed and capped, the owner's responsibility for the site is released by the Virginia Department of Environmental Quality (DEQ), and the site condition is deemed acceptable to the Park Authority.
- The Park Authority requests that the applicant provide passive recreation amenities such as trails, picnic areas and pavilions, open play areas and an overlook plaza at the site's highest point. The applicant should construct all of these facilities to Park Authority standards in consultation with Park Authority staff.
- Active recreation facilities such as a BMX race track and sledding hill with access steps as shown on the Development Plan are not recommended. For liability and management reasons, the Park Authority is not interested in owning, operating, or maintaining such facilities.
- The Park Authority strongly recommends that the applicant control non-native, invasive vegetation on the site. The applicant should establish a vegetation management plan that will control invasives and promote the establishment of native meadow species. The plan should also define the species and types of woody vegetation that are beneficial or harmful on the stabilized landfill surface to promote long-term stability, benefit wildlife and be aesthetically pleasing and recreationally beneficial. Establishing and implementing a vegetation management plan will contribute to making this location a quality wildlife habitat and viewing area.
- The Park Authority requests that the applicant provide public access trail connections from the site to the Laurel Hill parkland, Greenway, and Sportsplex area.

As presented and reviewed by the Planning and Development Committee on July 12, 2006.

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Board Agenda Item  
July 26, 2006

**ADMINISTRATIVE - 3**

Adoption of Minutes – July 12, 2006 Park Authority Board Meeting

ISSUE:

Approval of the minutes of the July 12, 2006 Park Authority Board meeting.

RECOMMENDATION:

The Park Authority Director recommends approval of the minutes of the July 12, 2006 Park Authority Board meeting.

TIMING:

Board action is requested on July 26, 2006.

FISCAL IMPACT:

None

ENCLOSED DOCUMENT:

Attachment 1: Minutes of the July 12, 2006 Park Authority Board meeting

STAFF:

Michael A. Kane, Director  
Timothy K. White, Chief Operating Officer  
Nancy L. Brumit, Administrative Assistant

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**Fairfax County Park Authority  
Board Meeting  
July 12, 2006**

The Chairman convened the meeting at 7:33 p.m. at Park Authority Headquarters, 12055 Government Center Parkway, Fairfax, Virginia 22035.

**Board Members**

Harold L. Strickland, Chairman  
Joanne E. Malone, Vice Chairman  
Frank S. Vajda, Secretary-Treasurer  
Edward R. Batten, Sr.  
William G. Bouie  
Kevin J. Fay  
Kenneth G. Feng\*  
Harry Glasgow  
Georgette Kohler  
George E. Lovelace  
Gilbert S. McCutcheon  
Winifred S. Shapiro

\*Board Member Absent

**Staff**

Michael A. Kane, Director  
Timothy K. White, Deputy Director  
Nancy L. Brumit, Administrative Assistant

Charlie Bittenbring  
Elisa Lueck  
Miriam Morrison  
Judy Pedersen  
Lynn Tadlock

Seema Ajrawat  
Ray Alexander  
Wangin Bang  
John Berlin  
Ricardo Cabellos  
Liz Crowell  
Kirk Holley  
Cindy Jordan  
Barbara Nugent  
Sandy Rittenhouse  
Gary Roisum  
Kay Rutledge  
Dan Sutherland  
Marsha Smeenck  
Sandy Stallman  
Janet Tetley

Guests: Citizens interested the White Horticultural Park:

Lawrence Peirai	Dennis Stephens	Patricia Gorden	Howard Landon
Susan Carpenter	Dick Carpenter	Dennis Conlon	Neal Straker

**AGENDA CHANGES:** Mr. Strickland asked if there were any changes to the Agenda. Mr. Strickland requested that Personnel Matters be added to Closed Session. **There were no objections from the Park Authority Board.** With this change, Mr. Strickland announced that he would proceed with the Agenda as publicized. **There were no objections from the Park Authority Board.** **NOTE: REVISED I-1 FY 2006 Carryover Budget Review – All Funds,** which was reviewed and discussed during the July 12, Administration, Management and Budget Committee was distributed.

## **PRESENTATION**

### **P-1 Introduction of Summer 2006 Interns**

Mrs. Tetley, Intern Coordinator, introduced the following 17 interns and their assigned division for the summer of 2006:

#### Administration Division

**David Shoup** is a Junior at Radford University majoring in Finance.

#### Park Services Division

**Anthony Mandela** is a recent graduate of Cedarville University with a B.A. degree in Business.

**Morgan Moore** is a Senior at Ohio University majoring in Public Relations.

**Danaye Weber** is a Senior at Indiana University of Pennsylvania majoring in Studio Art (focus in Graphic Design) with a minor in English.

**Keyshana Williams** is a Junior at George Mason University majoring in Communications with a focus on Public Relations and a minor in Business.

#### Planning and Development Division

**Bobby Bernier** is a GIS student entering his Senior year at James Madison University.

**Mina Petrova** is a Senior in the Landscape Architecture Master's program at the University of Forestry in Sofia, Bulgaria.

#### Resource Management Division

**Dan Boyd** is currently enrolled at George Mason University and is studying Ecology.

**Michelle Gates** is the horticulture intern at Green Spring Gardens.

**Eleanor Mahoney**, is a graduate student in Public History at Loyola University Chicago.

**Katie Raney** is a Junior at George Mason University where she is majoring in History and English.

#### Park Foundation

**Ethan Bruce** is a Senior at George Mason University majoring in Recreation, Health, and Tourism, with a concentration in Sports Management.

Mrs. Tetley introduced the interns' supervisors and mentors: Sandy Rittenhouse, Green Spring Gardens; Cindy Jordan, HPRS; Liz Crowell, Cultural Resources; Kay Rutledge, Planning and Development; Marcia Smeenk and Seema Ajrawat, Financial Management; Sandy Stallman, Planning and Development; and Gary Roisum, Huntley Meadows Park.

On behalf of the Park Authority Board, Mr. Strickland welcomed the interns to the Park Authority and told them to have fun, but to work hard.

**P-2 Community Connections Update**

Since September 2005, staff has been developing the concept and implementation approach for the Community Connections initiative.

Mr. Berlin provided a PowerPoint presentation for his update on the Community Connections. Significant work has been done to develop strategic partnerships with other county agencies and to lay the foundation for moving into targeted communities

Mr. Berlin included an update on the status of program initiatives and plans for the future. Mr. Berlin reported that two positions were recently filled to staff the Community Connections Program. Mr. Berlin introduced Wangin Bang, Coordinator, and Ricardo Cabellos, Outreach Assistant, for the Community Connections Program.

Mr. Batten stated that this was an absolutely excellent presentation. Mr. Batten stated that he is happy to know that there are a couple of new staff members who are ready to go. Mr. Batten stated that it looks like the Park Authority has a great game plan.

Mr. Strickland stated that the presentation was great. Mr. Strickland stated that the Park Authority Board has discussed diversity in Fairfax County for a number of years. The Park Authority Board's absolute interest is being sure that it has this outreach program, and it is absolutely great to see that staff has a good plan with additional staff members to execute it. Mr. Strickland thanked Mr. Berlin for the effort that he has put into the Community Connections Program.

Mr. Strickland stated that this is absolutely the direction that the Park Authority Board wants to go in and staff has met the Park Authority Board's goals.

**ADMINISTRATIVE ITEM****ADMIN-1 Adoption of Minutes – June 28, 2006 Park Authority Board Meeting**

Mr. Bouie **MOVED** the Park Authority Board accept the minutes of the June 28, 2006 Park Authority Board meeting as **AMENDED** below; **SECONDED** by Ms. Malone and **APPROVED** with Mr. Feng being ABSENT.

**Page 2     ADMIN 2 - Request for Land Dedication for RZ/FDP 2006-SU-007**

Delete: There was no discussion on this item.

**Page 3     A-1 - Approval - Residential Rental Property Rate for Mount Gilead House**

Delete: There was no discussion on this item.

**Page 7     CHAIRMAN'S MATTERS**

Second Paragraph, last sentence to read: Tim White distributed an updated version of the draft project matrix.

**ACTION ITEM**

**A-1     Scope Approval – Huntley Meadows Central Wetland Restoration**

This item was reviewed by the Resource Management Committee on June 28, 2006 and was approved for submission to the Park Authority Board.

Mr. Batten **MOVED** the Park Authority Board the project scope to design the wetland restoration and to conduct the first phase of restoration improvements to the central wetland at Huntley Meadows Park; **SECONDED** by Mr. Bouie and **APPROVED** with Mr. Feng being absent.

**INFORMATION ITEM**

**I-1     FY 2006 Carryover Budget Review – All Funds**

These items were reviewed by the Administration, Management and Budget Committee on July 12, 2006 and were approved for submission to the Park Authority Board.

The Director will submit these FY 2006 Carryover requests, with the final figures that were made available at the July 12, 2006 Administration, Management and Budget Committee meeting, to the Department of Management and Budget. **There were no objections from the Park Authority Board.**

**DRAFT MINUTES**

Mr. Fay distributed a copy of the Board Matter that Supervisor DuBois presented to the Board of Supervisors at their meeting on Monday, July 10, 2006. In light of the damage caused by recent storms, Supervisor DuBois stated that she is “becoming increasingly concerned about what appears to be an extensive impact on public infrastructure and a probable insufficiency of appropriated general funds to restore them.” Supervisor DuBois asked, “without objection, that the County Executive be asked to come back to the Board (of Supervisors) on July 31 (2006) with a preliminary estimate, by agency, of the required funding to repair or replace damaged and/or destroyed buildings, equipment, trails and parkland.”

Supervisor DuBois stated that her “goal in asking for this report is to ensure that the Board (of Supervisors) takes no action on any new carryover requests without being fully aware of the need to assure that previous investments are fully operational.”  
(The motion passed without objection.)

#### **CHAIRMAN’S MATTERS**

Mr. Strickland's will discuss his MATTERS in Closed Session.

#### **DIRECTOR’S MATTERS**

- **2006-2010 Strategic Plan**

Mr. Kane announced that a memo transmitting the final draft of the 2006-2010 Strategic Plan had been placed at the Board Members seats. Mr. Kane requested that the Board review the material in advance of the July 26, 2006 Strategic Planning and Initiatives Committee meeting, at which time staff will be available to hear their feedback. At the July 26, 2006 Committee meeting, he would also like to discuss the process that will be used to solicit stakeholder feedback on the draft plan.

Mr. Kane stated that any questions should be directed to Elisa Lueck, who has served as the Chairman of the Strategic Plan Steering Committee.

- **Flood Damage Assessment**

Mr. White distributed a memo outlining the known damages to our parks from the June 25-27, 2006 rains/floods. Mr. Kane noted that the most current information as of July 11, 2006 estimates damage to total park property to be \$1,161,848, and will increase.

- **Lake Fairfax Park Water Mine Wins Family Magazine Accolades**

Each year, Family magazine conducts a reader poll to select the “Best for Families” in a wide variety of categories. For 2006, the Park Authority’s Lake Fairfax Park Water Mine was voted a finalist in the “Best Sunny Day Outing” category and the winner in the “Best Swimming Pool/Water Park” category.

### **DRAFT MINUTES**

While on the topic of the Lake Fairfax Water Mine, Mr. Kane noted that in the very near future the 1,000,000<sup>th</sup> visitor to the Water Mine will come through the gates. The Park Authority is planning a celebration honoring the 1,000,000<sup>th</sup> visitor with a Lifetime Pass to the Water Mine.

- **Groundbreaking Ceremonies for Artificial Turf Fields**

Mr. Kane announced that on Friday, July 28, 2006 at 9 a.m. a groundbreaking ceremony will be held at Wakefield Park for the synthetic turf field, followed by another groundbreaking ceremony for the synthetic turf field at Mason District Park at 10:30 a.m.

## **COMMITTEE REPORTS AND SPECIAL ASSIGNMENTS FOR THE RECORD**

**NOTE: No committee minutes were entered FOR THE RECORD at this meeting. Committee minutes are entered FOR THE RECORD during the second Park Authority Board meeting each month.**

## **BOARD MATTERS**

- **Joanne E. Malone**

Ms. Malone had no Board Matters.

- **Frank S. Vajda**

Mr. Vajda had no Board Matters.

- **Gilbert S. McCutcheon**

Mr. McCutcheon reported that Mount Zephyr Park recently had a dedication, but he would yield to Harry Glasgow for the details, since he was unable to attend.

- **Winifred S. Shapiro**

Mrs. Shapiro had no Board Matters.

- **Kenneth G. Feng**

Mr. Feng was absent.

- **Kevin J. Fay**

Mr. Fay announced that he had sent an invitation to the Board for the dedication of the Griffith Water Treatment facility at Lorton at 10:00 a.m. on Saturday, July 15, 2006. Congressman Tom Davis is the keynote speaker; Board of Supervisors' Chairman Connolly and Supervisor Hyland will also attend the event. The Water Authority is quite pleased with this state of the art facility and believes it is the best in the country.

**DRAFT MINUTES**

Mrs. Shapiro also noted that the suffragette marker, which is being moved from the Lorton Workhouse to the Water Treatment Plant, will also be unveiled. Former State Senator Leslie Byrne, who was president of the League of Women Voters when the plaque was originally arranged, is going to make a presentation.

- **Edward R. Batten, Sr.**

Mr. Batten announced that he and Mr. White met with Supervisor Kauffman and staff on Tuesday, July 11, 2006 to discuss Park Authority activities in general and more specifically those that impact Lee District. Supervisor Kauffman thanked Mr. White for doing an excellent job. Supervisor Kauffman is very pleased with the progress that the Park Authority is making in Lee District and overall, and Supervisor Kauffman looks forward to the Franconia #4 field being fully taken care of at some point in time.

- **Georgette Kohler**

Ms. Kohler had no Board Matters.

- **George E. Lovelace**

Mr. Lovelace had no Board Matters.

- **Harrison A. Glasgow**

Mr. Glasgow reported that the Mount Zephyr Park dedication was a standard Americana in action--thirty to forty people and their children standing around honoring a citizen of their community, Ingeborg Catlett, by naming a small park in the Mount Zephyr area after her. It was a very nice event, well planned, with political stars.

Mr. Glasgow also announced that today is the 189<sup>th</sup> anniversary of the birth of Henry David Thoreau.

- **William G. Bouie**

Mr. Bouie thanked the Board for the great gesture of voting to rename Fox Mill District Park to Fred Crabtree Park. Mr. Bouie stated that he and Tim White had a wonderful experience the following morning when they visited Fred Crabtree and presented him with a letter from Mr. Strickland. They subsequently read the letter at the Little League opening ceremonies on Saturday, July 1, 2006 at Westgate Park with 1,000 people in attendance. It was a very moving experience for everyone. The Park Authority received big kudos for doing something a little bit out of the ordinary. Fred Crabtree has had the opportunity to walk 'his park' again, and he is very excited about what has occurred.

Mr. Bouie reported that he had the opportunity to attend the fireworks display at Lake Fairfax Park on the 4<sup>th</sup> of July. Our constituents and our citizens were absolutely ecstatic with the fireworks this year, which appeared to be two to three times longer and much more intense than in previous years.

Noting John Berlin's earlier presentation, Mr. Bouie stated if there was ever a place to kick-off Community Connections it would be at Lake Fairfax Park on the 4<sup>th</sup> of July, because there is a little bit of everybody from around the world for the entire day. The agency may wish to do something with regard to Community Connections and associate it with the fireworks next year.

#### **ADDITIONAL BOARD MATTERS**

- **Edward R. Batten, Sr.**

Mr. Batten stated that folks had an exceptionally wonderful time at the Lee District Park events and fireworks display on the 4<sup>th</sup> of July. There was an exceptionally large turn out.

#### **CLOSED SESSION**

At 8:20 p.m. Mr. Vajda **MOVED** the Park Authority Board convene in closed session for

- a. Discussion of personnel matter pursuant to Virginia Code 2.2 - 3711 (A) (1)
- b. Discussion of Closed Session Minutes dated **June 28, 2006** pursuant to Virginia Code 2.2.3712(H).

The MOTION was **SECONDED** by Ms. Malone and **APPROVED** with Mr. Feng being absent.

- Personnel Matters
- Closed Session Minutes dated June 28, 2006

**DRAFT MINUTES**

Personnel Matters and Closed Session Minutes were discussed.

At 9:20 p.m. Mr. Vajda **MOVED** the Park Authority Board return to the Open Session; **SECONDED** by Mr. Lovelace and **APPROVED** with Mr. Feng being absent.

#### **CERTIFICATION OF CLOSED SESSION**

Mr. Vajda **MOVED** the Park Authority Board certify that, to the best of our knowledge, only public business matters lawfully exempted from open meeting requirements under Virginia Code 2.2-3712 and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Board; **SECONDED** by Mr. McCutcheon and **APPROVED** with Mr. Feng being absent.

#### **ACTIONS FROM CLOSED SESSION**

**NOTE: For consistency in reporting and future research, the Administrative Assistant keeps all items in numerical order as discussed during Closed Session.**

**C-1. Personnel Matters**

All staff and the Recording Secretary had been asked to leave the room.

As reported to the Recording Secretary by Frank Vajda, Secretary-Treasurer of the Park Authority Board, there was no action on this item.

**C-2. Closed Session Minutes dated June 28, 2006**

The following was reported to the Recording Secretary by Frank Vajda, Secretary-Treasurer of the Park Authority Board:

Mr. Vajda **MOVED** the Park Authority Board accept the Closed Session Minutes dated June 28, 2006 as discussed in Closed Session; **SECONDED** by Mr. McCutcheon and **APPROVED** with Mr. Feng being absent.

**ADJOURNMENT**

As reported to the Recording Secretary by Frank Vajda, Secretary-Treasurer of the Park Authority Board, at 9:22 p.m. Mr. Vajda **MOVED** that the Park Authority Board meeting be adjourned; **SECONDED** by Mr. Glasgow and **APPROVED** with Mr. Feng being absent.

Minutes Approved at Meeting  
on

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Frank S. Vajda  
Secretary-Treasurer

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Michael A. Kane, Director

Park Authority Board Minutes prepared by

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Nancy L. Brumit, Administrative Assistant

**DRAFT MINUTES**

Board Agenda Item  
July 26, 2006

**ACTION - 1**

Approval – John C. and Margaret K. White Horticultural Park Master Plan (Mason District)

RECOMMENDATION:

The Park Authority Director recommends approval of the Master Plan for John C. and Margaret K. White Horticultural Park as presented to and reviewed by the Planning and Development Committee on July 12, 2006.

ENCLOSED DOCUMENT:

Attachment 1: Revised John C. & Margaret K. White Horticultural Public Hearing  
Meeting Minutes dated May 8, 2006

STAFF:

Michael A. Kane, Director  
Timothy K. White, Chief Operating Officer  
Lynn S. Tadlock, Director, Planning and Development Division  
Sandy Stallman, Manager, Park Planning Branch  
Sherry Frear, Landscape Architect, Park Planning Branch

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**John C. & Margaret K. White Horticultural  
Public Hearing Monday,  
May 8, 2006  
7:00 p.m.**

**MEETING MINUTES**

**Attendance**

FCPA Board Members:

Frank Vajda, Mason District; Ken Feng, Springfield District; Gil McCutcheon, Mount Vernon District; Ed Batten, Lee District; Harry Glasgow, Member at Large; Bill Bouie, Hunter Mill District

**FCPA Staff**

Mike Kane, Director, Park Authority; Lynn Tadlock, Director, Planning & Development; Judy Pedersen, Public Information Officer; Sandy Stallman, Manager, Park Planning Branch; Irish Grandfield, Park Planning Branch; Andi Dorlester, Park Planning Branch; Sherry Frear, Project Manager, Park Planning Branch; Diane Probus, Park Planning Branch; Sarah Ridgely, Park Planning Branch; Mary Olien, Director, Green Springs Garden

**Citizens**

160 total citizens signed in. Approximately 200 in attendance.

**Proceedings**

The meeting started at 7:00 p.m. and was facilitated by Judy Pedersen. Following introductions of Park Authority Board Members and staff, Ms. Pedersen introduced Sherry Frear to present the Draft Master Plan Revision and Vehicle Access Report. After the presentation, Ms. Pedersen explained the process for public comment and the floor was opened to citizens and organization representatives.

## Speakers

Dick Carpenter, 3301 Holloman

- Read recommendations for Princess Anne Lane and Goldsboro Road and found nothing accurate and fair.
- Report says minimal impact to Goldsboro and the substantial trees and shrubs destroyed at the Princess Anne entrance. Outrageous to characterize them the same.
- Princess Anne Lane speaks of the experience of entering the existing driveway. Neglects to say that this experience would be gone. Widening and grading the existing driveway would destroy large trees and shrubs and a stone retaining wall which gives it much of its character. Saying that the existing driveway would not have to be widened is incorrect as it would not meet emergency access requirements.
- The Goldsboro paragraph contains statements that screening would need to be required to shield the parking and entrance road from view. Judging that in a horticultural park adding decorative screening would be a major drawback.
- Distance to the house would present ADA access problems but the entrance design includes access road to the house for emergency vehicles and handicap parking or entire parking near the house.
- Omissions: minimizing impacts to neighbors is identified as management goal but access report dismisses this saying “impacts to neighbors is subjective and not addressed in this staff report.”
- Workshop shows overwhelmingly that neighbors preferred entrance at Goldsboro Road. Report ignores public opinion in violation of planning process
- These draft recommendations are not result of fair and open process but derived by hidden agenda presumably political pressure.
- Princess Anne would cost the most and have substantial adverse impacts inside and outside of park property against public wishes.
- Using a publicly owned strip of land to access a public park is clearly in the public interest.
- Park Authority’s responsibility to produce a plan that respects property deeds, preserves and enhances horticultural resources, minimize impacts of local community and is not held hostage by the residents of one street.

Keith Sarson, Radnor

- Am a taxpayer.
- A right choice and a wrong choice.
- Cost for Goldsboro are exaggerated.
- Estimate \$1 million for Princess Ann entrance.
- Mr. Cotner, a county human services rep, is the problem, has influenced Penny Gross. Penny Gross said Goldsboro would be an entrance “over my dead body.”
- Call on Fairfax County taxpayers to shout.
- Announce recall campaign for Penny Gross .
- One person versus taxpayers is not worth \$1 million.

Chris Delta, 6619 Goldsboro Road

- Open house reminded her how wonderful it is to be near a rare horticultural treasure.
- Proud of how neighbors have conducted themselves.
- Misconceptions about entrance options. 1) Princess Anne would require acquisition of private property. Facts are contrary to signs in community, no land acquisitions would be required. Goldsboro entrance would require acquisition of property because Fairfax County Board of Supervisors abandoned the entrance to Goldsboro in 1988. 2) Princess Anne entrance would require uprooting of numerous horticultural assets. Fact: Princess Anne would require only a few large trees be removed and a few shrubs be relocated. Placing parking in meadow at Goldsboro entrance would destroy the meadows and the overall feel of the White Park which is nearly as important and the other horticultural features. 3) Goldsboro already has the infrastructure in place and cheapest entrance option. Fact: Once the fence is taken down additional expenses would be required, like substantial and costly screening, emergency access road will need to be constructed, cost to make Goldsboro ADA compliant would be significant, placement of utilities would cost hundreds of thousands of dollars; however, connecting utilities to Princess Anne would be the shortest and cheapest option for the county.
- Oppose Goldsboro entrance to the park.

Dierdre Prahm, Glenmont Street

- Fortunate to have horticultural park available.
- Real estate taxes increased 43% last year, like to believe increased tax dollars will be well spent.
- From a financial point, an entrance at Goldsboro is the logical choice. There are wide streets with large turnarounds for emergency vehicles, sidewalks already in place, additional parking at Sleepy Hollow School is convenient.
- Entering property from Goldsboro would require little or no destruction of trees, shrubs and flowers that people are coming to see.
- Horseman Lane would also require little destruction of Mrs. White's property. It is also a wide street with turnaround area but it is on purely a residential road with no convenient satellite parking available besides someone's front lawn.

- Princess Anne is most expensive option. Would require destruction of dozens and dozens of beautiful old trees and bushes on the White property and the property leading up to it.
- Purpose of park is horticulture. What sense is there in destroying trees to drive into a park to see trees?
- Goldsboro residents say it would affect the safety of their children who walk to school. There is a school in our neighborhood and many of our streets don't have sidewalks.
- Neighborhood is cut through from Sleepy Hollow and Annandale Roads, and additional traffic from Korean Church and the many soccer teams who play at Beech Tree School on the weekends.
- People on Goldsboro say it is hard to make turn onto Sleepy Hollow at the end of the school day, try making a left turn from Holloman onto Annandale at any time of the day. Intersection at Annandale and Holloman is already dangerous and additional traffic would intensify the problem.
- Agree between neighborhoods on the uses of the park, minimized use of park, no classes, sales or visitors.
- Urge Park Authority to take a stand against Penny Gross statement that Goldsboro is off the table.

Bob Walker, Clearwood Court

- Support horticultural park.
- Providing vehicle access through the Goldsboro stub is illogical alternative.
- Goldsboro stub ends approximately 600 feet from the White residence.
- The analysts assume those with disabilities cannot visit horticultural would not mind walking from the parking lot to the distant house and if they did maybe the county could run shuttle buses to the house or construct a full service road through the park.
- Goldsboro opening would also create the possibility of linking Annandale Road to Sleepy Hollow Road through the White property. Even without this possibility, opening the stub would result in additional cars circling through the Sleepy Hollow resident cul-de-sac in search of shortcuts.
- Need for traffic light at Goldsboro & Sleepy Hollow Rd, did the analyst think of that?
- Princess Anne is logical alternative. Seven houses are the only ones affected. Has no adverse effect to pedestrian access to and use of entire White Property.

Lawrence Pierce, Goldsboro Road

- Why is Goldsboro Road still listed as a drive in entrance, blind eye to critical issue of 1988 order to abandon Goldsboro Rd at the White Property line.
- Adverse effects to surrounding neighborhoods but you fail to tell us what they are. Security is a complete blank.
- Congressman Davis supported the abandonment motion. Foreclose any future entrance to the White property from Goldsboro.
- Heavy traffic threat to public safety.
- According to VDOT, only the section nearest the park would have to be widened.

- Little or no cost to Princess Anne entrance.
- Lynn Tadlock response to difference in cost said cost difference not significant.
- Reviewed cost estimate and numbers in need of repair. Portions of data skewed, overstated or perhaps understated. Off site costs of Princess Anne are overstated substantially. VDOT report shows minimal improvements.
- Reduce 51% contingency add on.
- Goldsboro grasscrete understated at least \$50,000. No cost given for screening parking lot. Add more dollars to add 700 foot path from parking lot to upper garden. When all corrections are made, costs exceed Princess Anne by \$50,000, \$75,000 or more.
- Goldsboro is not the cheapest road.
- 1988 order of abandonment is a severe legal hurdle to overcome, which will cause legal fees and delays.

Arlene Pierce,

- Goldsboro has 30 homes, Princess Anne has eight, and 8 on Rolfs.
- Goldsboro from Sleepy Hollow to White property is 4 blocks with twists and turns with three cul-de-sacs feeding onto street. Eight children live within a hundred yards of entrance, compare to eight straight streets of Princess Anne and Rolfs each a block long.
- Goldsboro is not number one choice because it intersects with Sleepy Hollow directly opposite of Sleepy Hollow Elementary School. Student struck by car at this intersection.
- At various times in the day, it is impossible to make a left hand turn at Sleepy Hollow.
- Weekend traffic is impacted by the cars coming and going to soccer matches.
- Sleepy Hollow Road left turn lane accommodates 3 cars, a fourth car backs up into main lane of moving traffic.
- Traffic and safety issues caused Board of Supervisors to vote abandonment for Goldsboro Road at the White Property line.

Patricia Gordon, Clearwood

- Oppose Goldsboro on grounds of safety.
- Safety concerns at Goldsboro and Sleepy Hollow.
- Sleepy Hollow has two lanes of traffic, parking lanes, metro bus and traffic lights all brought to bear the ever demanding traffic
- Sleepy Hollow has 13,000 vehicles a day passing in front of Sleepy Hollow Elementary.
- The most dangerous part of Sleepy Hollow is the divided portion just one block of either side of Goldsboro Road.
- Area 2 bus planning picks up students on wrong side of the intersection which makes children cross a divided road.
- Goldsboro Road has the 1988 abandonment that was mainly on safety.
- Divided portion of Goldsboro Road doesn't need any more traffic.
- Princess Anne is now the current entrance and is the perfect choice for an entrance to the park

Dan Cornette, Friends of White Horticultural Park

- No preferred alternatives for the vehicle access road.
- Urge the Park Authority to minimize the effects on the horticultural resources at the property.
- Property is peaceful oasis.
- Master plan overall provides an excellent survey of the horticultural, historical resources on the property that will facilitate the planning process and the development of the park.
- Appropriately recognizes the need to preserve, protect, and enhance the existing horticultural resources.
- Support proposed uses of the park.
- Programming should compliment programming offered at Green Springs and Hidden Oaks Nature center.
- Do not support private parties or receptions.
- Support caretaker living in residence to promote security after hours.
- Support parking lot of 25 spaces, sufficient to accommodate low level uses of property.
- Encourage use of pervious materials for parking to preserve character of property.
- Support the inclusion of amenities for public use such as restrooms, water fountains, and benches.
- Visitor information area such as a kiosk should also be provided
- Encourage control of invasive plants.

Dennis Conlon, Rolfs Road

- Acrimony, ill will and political hackery surrounding the White property.
- Major assets of park, wooded entrance and trees, are concentrated on west side of property which has three possible entry points Princess Anne, Kerns Road and Rolfs Road, any of which would be a costly construction project and would destroy the plants and trees.
- Other side there is an entrance, Goldsboro Road, that would be cheaper to develop and would not harm important assets of the park
- Supervisor Penny Gross' comments: Will honor commitment to residents of Goldsboro Road, we don't have status to request the BOS to reopen the road, and substantial cost to make the entrance somewhere else does not count.
- Lead to believe that BOS do not wish to oppose Mrs. Gross which makes master plan a sham document.
- Goldsboro spite strip is obsolete and should be reversed. Created to thwart commercial development and that has been accomplished by the county owning the property.
- BOS in 1988 claim that there is no legitimate need for this road which is wrong as we now see it.
- Reassured by Mr. Batten that the BOS will do the right thing.
- BOS should schedule a hearing to reopen Goldsboro Road.

George Delta

- Oppose Goldsboro for three reasons
- 1) 1988 abandonment: Unanimous vote to abandon the strip of land where Goldsboro Road ends and the White property begins. Primary reason was safety.
- 2) Child safety: Goldsboro Road is directly across from Sleepy Hollow Elementary school. Opening Goldsboro Road will endanger the lives of many children
- 3) ADA: Park Authority would be required to have a paved access from Goldsboro Road to the house. Such a road would destroy the beauty of the open lawn and meadows and it's too far from the house to be a suitable handicap entrance.

Margie Morris, 6360 Merrit Lane, Lake Barcroft

- Anticipated entrance at Goldsboro, which would be an easy entrance from Lake Barcroft.
- Stunned that other roads were being considered as an entrance which had beautiful trees that would be destroyed.
- Mrs. White desire to share the entrance.
- Park Authority plan would destroy the beautiful entrance at great cost to the taxpayers.
- Report recommends Goldsboro as best entrance site

Paula Sherman, Goldsboro

- Support park.
- Oppose Goldsboro Road as entrance to park.
- Purchased home with the understanding that there was no vehicular entrance to the White property. Three of the seven homes on Princess Anne Lane were purchased after the White property was deeded to Fairfax County.
- Safety issues with Goldsboro Road entrance include traffic problems at intersection of Sleepy Hollow and Goldsboro.
- Hundreds of students and teachers pass through Goldsboro Road and Sleepy Hollow intersection. Goldsboro Road entrance will increase traffic. Poses an increased threat to the safety of the students.
- Princess Anne is the shortest distance from the secondary road to the property, closest entrance to the most focal point so that visitors would not have to walk over a thousand feet uphill to enjoy the house environment.

Dennis Stephens

- Need to thank Penny Gross for statement that lit up our neighborhood.
- We live in a country where there are fair processes, elected officials serve us. Don't appreciate our elected officials telling us how it will be.
- Staff lost written reports from groups at the charrette, behavior is wrong.
- Transportation Department said they could probably waive the width requirement for Princess Anne Lane, you need to walk that road, it is narrow, you can't get a fire truck or ambulance up that road.

- Goldsboro Road pipe stem was closed to prevent development of McMansions, never was a discussion to prevent use of a park.

Susan Carpenter, Holloman Road

- Oppose use of Princess Anne Lane for future entrance to park
- Hope that as good stewards FCPA will 1) Study all the reports thoroughly to clearly understand the true impact of this park on the surrounding neighborhood. 2) Given fair consideration to all entrance options 3) Thoroughly studied the cost involved.
- Good steward does not uproot plants and cut down trees unnecessarily when other less expensive, less destructive, more appropriate solutions exist.
- Park Authority needs to ask the BOS to remove the impediment of the spite strip at Goldsboro Road.
- PA needs to assure neighbors in surrounding communities that everything will be done to maintain a minimal use park.
- PA needs to support community efforts to prevent destruction of plants and trees that define the White property.
- PA needs to work to maintain a safe and secure environment.

Michael Sherman, Goldsboro Road

- When you approach the property through the driveway, it is clearly landscape designed to be approached that way. You are presented with an incredible sense of the beautiful meadow.
- If you put parking lot at Goldsboro, the first thing you will see is the parking lot.
- Handicapped people, older citizens, parents of young children will have quite a walk uphill that is difficult and uncomfortable.
- Cost for Goldsboro aren't considering a number of things like access road and ADA compliance

Carie Stephens, Princess Anne Lane

- All should be given consideration, all children will be affected by this.
- Need to consider cost to taxpayer.
- Annandale Road has higher traffic than Sleepy Hollow.
- Spite strip is public property, Goldsboro is a public road and the park is going to be a public park, we ask that it not be blocked from a public land.
- Politics need to be put aside.

Susan Richardson, Kerns

- Member of National Rhododendron society and founder of the Friends of the White Horticultural Park.
- Agree that the house can be used by a caretaker who is involved in horticulture and preserving the property.
- Sun porch can be used for garden club meetings and educational programs.
- Art leagues could present art shows
- Cost effective and safer to incorporate restrooms into the house.

- Greenhouse could be used for plant development and available to those taking horticultural programs.
- If the barn could be restored and structurally secured it could be used by the public. Many options are available.
- Park should open at 9:30 a.m. to help with traffic and have a set closing time.
- Should be one entrance and exit and no additional paths or walkways giving public access to the park limiting use as a cut through and protect the trees and wildlife.
- Pedestrian entrance on Kerns Road would be dangerous because of poor visibility, curbs and gutters, children, and there is no parking
- Facts show that Kerns, Princess Anne, Horseman Lane are unacceptable as main entrances; costs, safety and environmental impacts would be too great.
- Emergency vehicles could use the Grasscrete pavement to reach the house.

Jean Komendera, Goldsboro Road

- Believe Princess Anne is a wonderful location for the horticultural park.
- Park should remain a passive horticultural park and not be used for revenue generating activities.
- Princess Anne should be selected as the entrance because it has been the entrance for the last 60 years.
- Provides the most direct access to the park amenities.
- Does not require long walk to the house and gardens and makes park more accessible to more of our citizens.
- Goldsboro vacation is a promise to the community that should stand, one of the key points of the vacation revolves around the safety and the impacts of the increased traffic a clear threat to the safety of public.
- Princess Anne is more than ½ mile from the nearest school and Goldsboro is just several yards away from the entrance to Sleepy Hollow Elementary School.
- Using entrance to park at Goldsboro would greatly increase traffic entering and exiting via Sleepy Hollow Road

Joe Stevenson, Sleepy Hollow Elementary School, resident of Goldsboro Road

- Streets have become significantly developed.
- Sleepy Hollow Road has had a severe impact predominantly due to the fact that it is a cut through from Columbia Pike to Seven Corners.
- Sleepy Hollow Road has thousands of cars a day.
- Opening up Goldsboro Road exacerbates a dangerous situation.

Kathleen Holmes, Glenmont Street

- This is a stable residential neighborhood, recognized as such in the comprehensive plan.
- Compatible uses in surrounding areas are residential use R-1 & R-2, big lots fortunate to have trees and plantings to go with it.
- Land use objectives 8 & 14 in Jefferson District are to maintain the stability in the established residential neighborhood, no adverse impacts or commercial uses.

- Plan contains uses that are commercial, inconsistent with comprehensive plan and urge them to be rejected.
- Placement of the parking lot: Severe stormwater drainage problems within the area and placement of the parking lot should take this into account, draft plan doesn't address this in a specific way.
- Within the radius bordered by Route 50, Route 7, Route 620 (Braddock Road) and I-495 there are eight park area sites. Within the western part of the county there are areas severely underserved. Urge that this park not be a priority but focus attention and our tax dollars to area in the west where land acquisition and park development is severely needed.

Neal Straker, Rolfs Road President of Holmes Run Homeowners Assoc

- Excited about having a horticultural park in our back yard.
- Park Authority was given a clear opinion from community that a light footprint is desired.
- Park should have limited use to minimize the impact on existing natural resources.
- Draft master plan does not reflect the sentiment of the community.
- A 24 feet plus freeway for an entrance is not what Mrs. White has in mind for her legacy.
- Mrs. White doesn't believe that the Park Authority staff takes the gift seriously. They don't care about her opinion. They are going to do what they want because she won't be here.
- Princess Anne Lane has been proposed as a park entrance impacting the north ends of the property; areas near and dear to Mrs. White.
- Read letter from Mrs. White; preference on entrance to the park would be Goldsboro.

John Turro, Goldsboro Road

- Mrs. White has been misled.
- Facts: 1) There is an entrance to the White property that has existed for over 60 years. 2) VDOT shows Princess Anne as their number one choice for an entrance. 3) VDOT says no major work needs to be done to Princess Anne, no trees will be cut; no property will be taken, no widening of the road. 4) Princess Anne is the closest entrance to a secondary road. 5) Entrance at Princess Anne will affect eight homeowners as opposed to 28 homeowners on Goldsboro Road. 6) Lynn Tadlock said there is no difference between Princess Anne and Goldsboro Road. Once you get into the property it will cost you a bundle to go from Goldsboro uphill a thousand feet. 7) Master plan says no horticultural resources will be destroyed. 8) Parking lot at Princess Anne will be closest to the White Gardens, Goldsboro is the farthest. 9) Princess Anne has no ADA compliance issues. ADA expert says there is no way to make Goldsboro compliant. 10) Princess Anne is the cheapest entrance.
- Goldsboro is legally closed; the abandonment is the law.
- How is a parking lot in the meadow going to be beautiful?

Michael C. Trahos, Goldsboro Road

- Critical legal issue: Any decision made by the Park authority must be sustainable in circuit court.
- Any decision must be able to withstand a petition for motion for injunctive stay filed in circuit court.
- Four prong test for the issue for the stay that is set forth by the US Court of Appeals.
- Goldsboro residents will with certainty meet the four prong test for upholding of circuit court order issue of an injunctive stay against the entrance being on Goldsboro Road.
- Princess Anne Lane cannot meet this four pronged test for injunctive stay.
- Once the Park Authority reviews the litigation potential it will disapprove Goldsboro Road as the entrance to proposed park.

George Gordon

- My home is 200 meters from the proposed Goldsboro Entrance.
- Draft master plan is a thorough document that considers many aspects of park planning, commend staff for their efforts.
- Significant safety issues; also economic impact on Goldsboro community.
- There are 29 homes on Goldsboro Road. If Goldsboro Road is chosen as the entrance to the park, the tranquil nature of the Goldsboro community will be disturbed and individual property values will be reduced \$50,000 or more.
- Fairfax County tax base would also be reduce by ½ million dollars.
- This decision financially benefits neither individual homeowner nor the Fairfax county tax base.
- Princess Anne Lane only 8 or 9 homes would have proportionally less impact.
- Urge board to reject Goldsboro Road as the entrance to the park.

Dr. Stephen Kauffman – Goldsboro Road

- Surrounding property was constructed long after the Whites moved in; they had every opportunity to cut through Goldsboro after it was put in; they obviously found that Princess Anne was the most convenient to get to their house.
- A driveway will have to be constructed if the Park Authority decides to use Goldsboro as an entrance to their property.

David Kauffman

- Grew up on Goldsboro.
- Impact to 28 homes versus 8 houses. From an economic and safety stance, 28 homes means more children and more economical impact
- Safety: Annandale Road and Sleepy Hollow Roads are not safe roads to cross; however, one is straight and not very long versus windy road with blind spots.
- ADA/emergency access: Need emergency access. Can't imagine it is easier to travel up the hill to her property than it would be at the other entrance.
- Cost: No doubt that Princess Anne would have to be widened. It would be improvement. No doubt that Goldsboro is already developed and could handle more traffic but costs would be greater at Goldsboro.

Diana Venskus, Goldsboro Road [Handout with technical analysis on physical activity and kinetics has been added to the public comment file.]

- Favor access to the park at Princess Anne Lane as opposed to Goldsboro Road.
- Goldsboro creates a physiological barrier to persons aged 55 and older
- Goldsboro is at 276' above sea level, at the White Estate it is 315' which is 39' rise over 700 feet.

Peter Deede, Holmes Run Valley

- Looking at draft report, as stewards of park land and tax revenues, there is only one decision to make and that is Goldsboro Road because of the impact on all the other streets and the cost involved.
- Large number of trees and bushes will have to be removed for access at Princess Anne Lane, Rolfs Road are tremendous.
- Horseman Lane would impact a major pond area.
- None of the same issues at Goldsboro Road.
- Horticultural issue alone should drive the decision but add in the cost factors and the loss of irreplaceable greenery and the unique country roads makes the decision more clear that Goldsboro Road should be the right answer.
- Fairness: Holmes Run Valley has been dealing with cut through traffic from park on the western side of neighborhood.
- Access from Sleepy Hollow Road to Princess Anne Lane or Rolfs Road would require going through dozens of family homes not just the eight on Princess Anne. You'd go on Valley Brook, Devon, Kensey Lane and Holland Lane to get to the park.

Cheryl Furst

- County should preserve as much of the existing horticultural resources and woodlands as possible.
- Vehicle access should be where there is least impact on shrubs, woodlands and ponds.
- Pedestrian entrances should be created to increase accessibility by foot and decrease automobile traffic.
- Since most of the patrons of the park will spend substantial amount of time walking through the park, the distance individuals need to walk to the main building does not seem to be a relevant issue to be considered.

Harold Freeland, Goldsboro Road

- Goldsboro Road entrance will have a wider and more visible negative impact on the natural resources of the park than any other option.
- Several tall trees will have to be removed from the entrance that shields homes from the Goldsboro Road residents.
- Parking area and access lane requires clearing trees and shrubs along 350' of the boundary between the meadow and the woodlands

- Design faults in access from Goldsboro for emergency access. Three hazardous and unsafe 90' turns are required: one in the parking area, one on leaving the parking area and one in the blind turn around the barn
- Access plan states topography from Goldsboro is relatively flat , in fact from the 300' contour to the 315' elevation contour the slope is 7.2%, 20% greater than the maximum 6% allowed by the county.

Mary Terhune, Holloman

- Holloman Road has same concern for safety of children over a far larger area and impacting many more children. There are more than 20 children on Holloman Road all who play outside after school and on weekends
- Princess Anne Lane, Rolfs Road and Nicholson Lane have many more.
- Small neighborhood streets already accommodate a large amount of cut through traffic every day.
- It is baffling that the residents of Goldsboro Road continually cite their children's safety as paramount concern.
- Take issue with the principal of Sleepy Hollow becoming involved in the process.
- Are the children on Goldsboro Road more important than others?
- We should look at the overall number off impacted families and children.

Jackie Bast, mother lives on Goldsboro Road

- Take a look at the big picture.
- Hard work and horticulture treasures are sacrificed in this county every day.
- Many examples of Fairfax County parks that have no sidewalks or pedestrian access to the entrance.
- People will leave trash, will empty trash from cars or pockets in the most convenient spot, which happens to be your front yard.
- County should maintain walking trails, no resident should be called upon to pick trash or provide security.
- Kerns Road is perfect example of what happens when streets lead to anything, first traffic signs, then traffic lights, then the speed bumps.

Nicole Bast, Goldsboro Road

- Greatest concern for security and safety for our children in our community.
- Hundreds of children, parents and teachers must enter Sleepy Hollow Elementary School each day.
- Sleepy Hollow Road is heavily traveled at Goldsboro Road intersection and is a divided highway with no guarded crosswalk or traffic light.

Beth Gilmore, Holloman Road

- Oppose making the entrance to park on either Princess Anne or Rolfs Road.
- Seems foolish to remove the very resources that the park seeks to protect to gain vehicle access when Goldsboro Road is a very reasonable alternative.
- If Goldsboro Road were used as an entrance very little or no trees would need to be removed and there is a nearly clear path from the street onto the White property.

Jim Venskus

- Kids are not replaceable in any community.
- Millions of dollars of property off the tax rolls; don't wish for taxes to disrupt a neighborhood.
- We are told there will be minimal impact, no intrusive uses; recent publications indicate a wish to have wedding receptions and things like that.
- Please consider the impacts on all the neighborhoods.

Thelma Jo Prince

- Live 1-1/4 mile from busy intersection of Annandale road and Rt 50; our yard is very peaceful from the natural sound barrier of the big trees on the surrounding properties.
- Trees are so important to our well being that it would be good to keep as many of them as possible.
- Trees alter our environment by moderating climate, improving air quality, harboring wildlife, conserving water, reducing storm runoff. Leaves filter and trap dust, smoke, and ash making our air cleaner to breath, etc.
- It would be sad if Mrs. White's generous gift became less splendid because trees, rhododendron, and azaleas were disturbed, if wildlife and birds were displaced, and if our neighbors lose a portion of their properties to build a bigger entrance.
- There is an alternate entrance site that would lose neither personal property nor trees. It is incredible that Princess Anne would even be a consideration.

Maureen Norris, Beechtree Lane

- I have concern in my neighborhood as well as others for the safety of all of our kids and adults that walk the street
- Son went to Beechtree Elementary; cars were flying down the street, safety was an issue.
- Suggest you go to Sleepy Hollow School to see that the traffic; you can get in and out of Sleepy Hollow school faster than Annandale Road or Beechtree to get to the other school.
- Issue with principal writing a letter that the residents of Goldsboro asked him to write.
- Trying to be fair, it's our tax dollars and I hope you look at all the entrances and really look at how everyone's tax dollars are spent.

Alison Metzger, Holloman Road

- Do not want the park. Enough parks in Fairfax County, many that are in need of funds and attention. Not sure we need another.
- Mrs. White's generous donation has been turned into public rage.
- Traffic on Holloman as a pass through road for commuters, church goes on Sunday and school traffic every morning and every afternoon.
- Challenge VDOT to count the traffic on Holloman, Princess Anne, and surrounding roads, plus Goldsboro.

- Statement that Princess Anne should be the entrance because it has been the entrance for the last 66 years is the silliest argument I've heard.
- Goldsboro Road is a quiet neighborhood with wide roads and no traffic. What a perfect entrance for a park.

Cindy Mason, Valleybrook Dr

- Significant inconsistencies between the Draft Master Plan and the staff recommendations.
- Key points in draft master plan that are not included in staff recommendations:  
1) Horticultural legacy is a key component in the site's history; draft MP states that its purpose is to preserve and enhance horticultural resources to ensure that sensitive resources are appropriately maintained and preserved
- Draft master plan reiterates park purpose with statement "minimize impact to natural resources, care must be taken in development and operation of the park to minimize adverse impacts to the existing resources, if any of the proposed uses conflicts with the purposes it will be considered an incompatible use." Staff recommendations do not reflect stated park purposes.
- Staff recommendation states that the Goldsboro entrance has only scattered and few trees and no formal gardens. Draft master plan states access from Goldsboro Court would result in less impact to the site's horticultural resources.
- Draft master plan states that protecting the canopy of large trees is critical to the shade of the shrubs.
- Staff recommendation focuses on the high quality visitor experience and is unrelated to the stated park purpose of preserving the natural resources.
- Any entrance other than Goldsboro would be counter to the draft master plan's stated purpose of preserving the horticulture as the key component of the site's history.

Olga Mitchell, Princess Anne Lane

- In favor of the park and opposed to Princess Anne as primary entrance to the park. Princess Anne Lane is not a street, it's a lane; a charming shaded county lane lined with a dozen trees.
- Do not desire to live on an improved street.
- VDOT and Bowman consultant provide conflicting information. VDOT states that few, if any, trees would be removed on Princess Anne Lane and only part of lane nearest park would need to be widened to 18 feet, the rest remaining as is. The Bowman Group says that 330 linear feet must be widened, ½ the length of Princess Anne Lane, having huge impacts on our residential experience.
- Request that the Park Authority Board choose entrance that does not destroy horticultural resources inside or outside the park where the view of the meadow and house creates an enjoyable visitor impression and already improved street and sidewalks.

Jim Mason

- Configuration of this park will directly impact my family.
- Concerned that the Park Authority would conduct a lengthy planning process with questionable regard to cost in developing this park.
- Four of the five proposed entrances would require extensive changes upgrades to the existing roads costing taxpayers hundreds of thousands of taxpayer dollars.
- Vehicle access report shows lack of shoulders and sidewalks along Princess Anne, Rolfs or Horseman would make these unsuitable locations for pedestrian access to the park.
- If sidewalks are constructed VDOT would not maintain them on ditch section roads.
- Installation of sidewalks would require removal of trees and create greater impact on existing residential properties.
- Princess Anne's existing driveway is narrow, unstable and cannot safely serve the park in its current condition; re-grading and widening would be required.
- Access report states Goldsboro does not need additional work and access from Goldsboro would result in low impact to the site's horticultural resources, natural resources would also receive little to no detrimental impact.
- Safety of neighborhood children is not a unique concern for residents of any particular road, children in every neighborhood deserve our protection and concern for their safety. Residents living near all proposed entrances share the same concern for safety of neighborhood children.
- ADA access is painful at all entrances.
- Inefficient use of public funds is unacceptable to taxpayers of the county; an entrance at Rolfs Road is most unacceptable as it would require condemnation of private property.

Shelby Ammaddeo, Princess Anne Lane

- 25 children on Princess Anne Lane.
- Lived near a park and it was a bad experience; moved to Princess Anne Lane.
- Difficult to sympathize with Park Authority and friends of White Park who are very concerned about the view and ignore the more responsible concerns of residents including Mrs. White.
- Responsible concern is the senseless destruction of animal and plant life necessary to accomplish the quest for view.
- Responsible concern for the unnecessary overspending of our tax dollars when other options prove to be quite viable.
- Vehicle impact report does not discuss the impact on residents nor discuss in detail what would happen as a result of planned construction.

Ed Ammaddeo, Princess Anne Lane

- Question why staff has chosen most expensive and most destructive entrance.
- Insult to taxpayer. Sick of seeing tax money wasted
- Why did Penny Gross state "over my dead body"?

- Is this panel willing to confront the leading supervisors? Need to ask “what’s behind it.”
- Against using Princess Anne Lane because it is an insult to the entire community

Howard Landon

- Abandonment decision: Apparently the Board of Supervisors sat around and decided to abandon 100 square feet of land at Goldsboro Court.
- Everyone on both sides of the park suffer from tremendous traffic problems.

Chris Samuels

- Thanks to the Board that are here and listening to all the citizens of the community surrounding the White Park.
- Essential that you listen to all of them and judge accordingly.
- Princess Anne Lane is not suitable for an entrance, it would be a terrible thing for Princess Anne Lane and the White driveway to be destroyed.

Rawley Gilmore, Holloman Road

- Shame on the Park Authority, shame on district supervisor for even considering seizure of private property when the obvious location would be Goldsboro Road.
- Only property involved is owned by Fairfax County which makes it property that we all own.
- Oppose any entrance to the park on Rolfs, Princess Anne, Horseman.

Virgil Bodeen, Valleybrook Drive

- Very grateful for gift of White Horticultural Park to the community.
- Don’t believe you can have too many parks or trees and shrubs.
- Worried about Princess Anne, as a rather small residential street would be severely damaged and degraded if the park is put there rather than Goldsboro Road which is the logical obvious choice.
- Seems illogical to hold the entrance to the park hostage to the traffic and safety situation. That should be addressed in a different forum.
- I don’t believe the park would generate enough traffic to rule out Goldsboro Road as an entrance.
- For 18 years, the order of abandonment has served as a barrier to commercial development at the end of Goldsboro and it has served it’s purpose; now that beautiful public facility is about to be opened there, it is time that lift the order of abandonment as the county council intended when it was put in place.
- As a taxpayer, I’d be disappointed if any other access but Goldsboro Road was selected.

Robert Beck, Princess Anne Lane

- Rural feel with mature trees creating a canopy over narrow lane played major role in purchasing home on Princess Anne Lane.
- Already a park entrance option at Goldsboro Road that meets all requirements that would have to be constructed at any of the other entrance options.

- Construction of requirements would be disruptive, costly and change the character of the neighborhood.
- Please give serious consideration to removal of the spite strip at Goldsboro Road.

Richard Eldridge, Glenmont Street

- Support the transition of the White property to a park.
- Safety issue: If the entrance was put at Princess Anne, Rolfs or Horseman Lane, you still have the same issue with traffic at Sleepy Hollow School because a lot of the traffic coming into the neighborhood to get onto this street is not going to be magically dropped onto those streets affecting only the eight houses on Princess Anne.
- No matter what you decide there will be somebody that is not happy.
- Some of the things you need to weigh is the cost issue and based on the cost estimates out there are you going to go with the more expensive Princess Anne alternative or the less expensive Goldsboro alternative? Are you going with the plan that is more destructive to the horticulture that is supposed to be showcased? Or are you going with the one with higher impact as in Princess Anne or less impact at Goldsboro?
- Princess Anne entrance actually affects over 100 homes.

Brett Palmer

- Currently co-president of Holmes Run Homeowners Association.
- Vote on entrance with homeowners as to where the entrance should be; universally, not a single person voted said neither Princess Anne, Rolfs or Horseman should be the entrance.
- Park Authority has a grandiose vision of what is supposed to be in the park and we have a different vision. We live here, we want a beautiful park, a minimal park.

Donald Hyatt, American Rhododendron Society

- Looking from a different view, lives in McLean.
- Good friend of Mrs. White.
- Concern regarding access from Princess Anne: Driveway has beautiful plants and valuable specimens on either side, rhododendrons, azaleas and wild flowers on the bank; concern that this would be damaged as it would require re-grading.
- Goldsboro Road entrance: Approach through a field of buttercups; not one of the entrances has easy access because they all have problems.
- Concerns raised about safety, if park is treated properly with a minimalist attitude it will not be a major traffic concern.
- Sees park as school partner, resource.
- People should drop some of the hostilities because this is a wonderful resource, plants that haven't been around and don't exist elsewhere and a landscape we don't see in Fairfax County.
- Does not believe Mrs. White regrets selling the property to PA.
- Conflict needs to be resolved.

Richard Jackson, Holloman Lane

- On the traffic issue, there is a lot more traffic on Annandale Road than on Sleepy Hollow.
- Most of the roads don't have sidewalks or wide roads leading to property; the best access would probably have to take somebody's house away.
- Goldsboro Road already wide, has sidewalks, has access right to edge of property.
- Amazing that we would even consider any access other than Goldsboro for that park.
- If you use any other access, you would have to destroy other things that are along the way.
- Sleepy Hollow, at Goldsboro Road, is a dual lane road with a turn lane.
- Encourage you to consider Goldsboro Road as primary access.

Sean Ford, Nicholson Road

- Live close enough to witness serious division created in community because of this issue.
- Divisions and comments underscore a simple point: The decisions you make regarding the White Park are going to dramatically affect our community for many years to come.
- Ask that you do what is right to balance park and county interest in the park with the interest of the nearby residents whose lives are going to be most directly affected by it.
- Three points 1) Foremost concern for most of the residents is the primary access for vehicles. Four of 5 potential entrances have dead end roads. 2) Parking lot should be near center of park. Enough of a blow for whatever street gets the vehicular entrance, they should not be forced to have parking lot fifty feet from their property line. 3) Give high standing to those whose lives be most affected by the park. It is offensive to most of us to hear that plants and trees should be sacrificed in respect to determining vehicle access and parking.

Jeffrey Maturra

- In favor of Princess Anne as the entrance to the park.
- Oppose Goldsboro as entrance.
- Three points 1) Abandonment: Remind you that the abandonment was a formal legal process. 2) Safety: Of all the options available, this is the most appropriate decision, Goldsboro is closest to an educational institution. 3) ADA compliance is required and will significantly affect cost in the option chosen.
- Intent of Mrs. White: Need to consider entirety of her intentions for the property, the use of the property in broader context not just what entrance to chose.

Harry Emlet, Clearwood

- Applaud generous gift of Mrs. White.
- Agree that we should achieve a balance between the park considerations and the impacts to the surrounding community.

- Bought in the Goldsboro community wanting the safety and privacy of a no-through traffic street.
- Understand the potential of the White property being sold to developers and Goldsboro Road being converted to a through road bringing much traffic through the development.
- Were assured that the abandonment is final and not subject to change.
- Many of us have a primary interest in the values of our properties.
- Planning committee is developing a master plan ignoring the relative impact in environmental and financial to the residents directly affected by the park access action.
- Cost estimates are of questionable validity.

Bill Wright, Nicholson

- One thing that struck me is that we need to consider that no roads should be widened to create access to this park.
- Suggest that “no parking” signs be put on both Princess Anne side and the Goldsboro side because you don’t want a lot of vehicles pulling up and people getting out.
- Brings lots of bad behavior in parks.
- Would like to hear plan for mitigating those kinds of threats to the neighborhood.
- Security and lighting would be a possibility.
- Barn, greenhouse and main house look very dilapidated. County could further it’s investment and make property what it could be.
- Regarding signage, don’t want to see on Sleepy Hollow or Annandale Road is a big sign that says “White Horticultural Park that way.” If there are no signs nobody will know about it except by maps. Garden folks will talk to other garden folks.

Tom Olliger, about a mile from park entrance

- None of the local residents want the street that they live on to be the vehicular access point but the fact of the matter is that at one point it must be chosen.
- In reading literature provided by FCPA, Goldsboro is my overwhelming personal choice.
- Nobody wants to put the Goldsboro children in jeopardy and harms way, echo sentiment for the children living and playing on Horseman, Rolfs and Princess Anne and Kerns.
- Park affecting the safety of children at Sleepy Hollow School is outlandish, NIMBY tug at your emotions. The stretch of road on Sleepy Hollow Road where the school sits sees an average of 12,000 vehicles per day, the park is expected to generate an additional 30 vehicles. This traffic increase is ¼ of 1 percent on Sleepy Hollow Road.
- Vehicle access report shows traffic increase on Goldsboro would be projected at 7.5 percent. Princess Anne, Rolfs or Horseman would have average vehicle jump of 38%. This increase would deeply concern me if I lived on these roads.
- Agree with Park Authority’s management objectives to minimize impact to neighbors.

- Don't believe that the BOS in 1988 intended for the community's children be chess pieces with kings, queens and bishops living on protected Goldsboro and the pawns living on every other street in the community. Safety is for everyone equally.

Alice Straker, Rolfs Road

- Going through the draft master plan and vehicle access report several things are not supported in the content in the management objectives.
- Really don't know what this is going to be. Ask the board to look at how staff has supported the management objectives.
- Deed comes behind the legislative requirements and business preferences.
- Not going to be another Green Springs but will have plant beds and meeting spaces; I can go to any public school for a nominal fee if I need a meeting space, it is important not to duplicate Green Springs.
- Master plan needs to be revisited.
- Sort of an after thought. Self guided tours without staff encouraging large groups.

Steven Kidwell, Rolfs Road

- Oppose any entrance on either Rolfs Road or Princess Anne.
- Please spend our tax dollars wisely, please do the right thing, please chose Goldsboro Road.

Roger Morse, Kennedy

- Thought we were being heard at the workshop, apparently we were not.
- Lot of what happened there was hijacked by the park commission.
- Live on Kennedy Lane as far as where the entrance will go we are going to be a cut-through street regardless.
- As a taxpayer, we've invested millions of dollars putting in roads on Goldsboro, putting in wide roads, curbed sidewalks to make it accessible, a lot is invested there.
- We are taking lots out of the tax rolls to put in the park.
- Overwhelming desire to have a minimalist park.
- Nobody wanted that house to be used for anything but the caretaker.
- Why waste more money picking a site and an entrance that will cost a whole more taxpayer money when we haven't shown a demand for another Green Springs.

Jim Dubbs, Princess Anne Lane

- Don't take a part of my property for the widening of road along with cedar oaks trees on property for 25 years.
- Widening will be more than easement allows.
- Give me a guarantee in writing and I will take this off my agenda.
- Don't take my land to preserve someone else's street.
- Save neighbors land and trees along Princess Anne Lane and Rolfs Road.
- Holloman Road and Holmes Run residents get impacted.

- Ridiculous to say 8 homes get affected.
- Princess Anne Lane will pull other people off road and not all will go right on Annandale Road.
- Consider children. We have a school that children walk to.
- Annandale Road intersects Holloman on a significant curve before you get to Princess Anne Lane.
- Numerous children walk across Annandale/Holloman intersection on their way to Beech Tree School.
- Numerous accidents on the Annandale/Holloman curve.
- Annandale Road is not a cut through from Columbia Pike to Seven Corners.
- Annandale Road is a major artery.

Belva Conlon

- When this started on March 22<sup>nd</sup>, our street was not able to attend workshop which we did not realize was the impending doom that since transpired.
- Workshop selected our street for the entrance to park property.
- We were not there to support ourselves meant we were lame duck there.
- We were told that entrance to Goldsboro Road was not a choice to be considered.
- Landon home hosted a meeting where Penny Gross and Mr. Vadja attended with neighbors on Princess Anne, Holloman, and Rolfs Roads attended.
- At meeting, Ms. Gross was adamant that there was no discussion to be had on Goldsboro Road.
- How to come up with compromises all entrances and all live freely here.
- Property owned by county paid for by tax dollars, which would eliminate any need for changes outside of the park boundaries.

Ilene Liberti, Holloman Road

- Hope that decision will be made that neighborhood can live with.
- This has broken our neighborhood apart.
- Urge all arguments be considered that were heard tonight and written testimony.
- Put aside hostility.
- Emphasize goals of park, the horticulture.
- Put aside concerns coming from panic and fear.
- All are concerned about safety and trust in your judgment.

Henry Terhune, Holloman Road

- Strongly oppose Princess Anne Lane and Rolf Roads as entrance.
- This entrance will impact wider geographic area and more children.
- Address some arguments that have been put forth by neighbors that oppose Goldsboro as entrance.
- Order of Abandonment as insurmountable hurdle: Congress changes laws all the time, sometimes laws they enacted weeks before.
- Park Authority has a duty to recommend a lifting of the Order to the Board of Supervisors if they believe Goldsboro is best.

- Residents in impacted area wherever they may be will look at these kinds of legal arguments and put them forward.
- Real estate devaluation and county taxes.
- Strong objection to letter from principal of Sleepy Hollow Elementary.
- Echo comments made by others this evening regarding casual but unusual statement by staff that they understood from informal/off records discussions that waivers could be obtained to minimize possible impacts of Princess Anne Lane. Statement potentially out of order.

David Stewart, Kennedy Lane

- Hopes Park Authority will listen to desire for low impact use, features, and facilities to be added to this Park.
- Believes Park Authority respects all credible, negative impacts will be lessen for both entrance considered to be favorites.
- Hope Mrs. White wishes regarding her gift to neighborhood for generations to come will be respected.

Maria Turro

- Residents of Goldsboro Road and those opposed to the use as an entrance to the Park realize that this hearing is not popular or numbers game but rather a process of planning and upholding the law: Goldsboro Legal Abandonment of 1988.
- Last year and half has been wasted on a non-issue.
- Where is logic in discussing an entrance to White property that is accessible now and has been for fifty years through the existing entrance on Princess Anne Lane?

Louise Dayton, 3538 Devon Drive

- Former president of Holmes Run Valley Association.
- Impact on Valley Brook for people coming from Columbia Pike because first entrance into neighborhood to get to Princess Anne Lane.
- Live down Sleepy Hollow you would have to go down to Kennedy which would be impacting our neighborhood.
- From Route 50, you would have to come in through Holloman.
- Coming off Annandale Road or any other roads they would all come through neighborhood and be impacting over 600 homes.
- Most have no sidewalks, no parking spaces.
- We like our rural looking area.
- To take land by eminent domain/private property; we own strip that was put in there to prevent development; not a public party that is owned by County.
- County can be sued by us. Will sue, will fight this.
- No business to take private land when we have land to make this entrance.

END OF SPEAKERS

Ms. Pedersen thanked the speakers for their comments, stated that the public comment period would close on Thursday, June 8, and noted that the addresses for written comments is on the printed agenda.

**List of Speakers, Final  
White Public Hearing, May 8, 2006**

Dick Carpenter  
Keith Sarson  
Chris Delta  
Dierdre Prahm  
Bob Walker  
Lawrence Pierce  
Arlene Pierce  
Patricia Gordon  
Dan Cornette  
Dennis Conlon  
George Delta  
Margie Morris  
Paula Sherman  
Dennis Stephens  
Susan Carpenter  
Michael Sherman  
Carrie Stephens  
Susan Richardson  
Jean Komendera  
Joe Stevenson  
Kathleen Holmes  
Neal Straker  
John Turro  
Michael C. Trahos  
Helen Trahos  
Goerge Gordon  
Dr. Stephen Kauffman  
David Kauffman  
Diana Venskus  
Peter Deede  
Cheryl Furst  
Harold Freeland  
Mary Terhune  
Jackie Bast  
Nicole Bast  
Beth Gilmore

Jim Venskus  
Thelma Jo Prince  
Maureen Norris  
Alison Metzger  
Cindy Mason  
Olga Mitchell  
Jim Mason  
Shelby Ammaddeo  
Ed Ammaddeo  
Howard Landon  
Rawley Gilmore  
Virgil Bodeen  
Robert Beck  
Richard Eldridge  
Brett Palmer  
Donald Hyatt  
Richard Jackson  
Sean Ford  
Jeffrey Maturra  
Harry Emlep  
Bill Wright  
Tom Olliger  
Roberta Kauffman  
Alice Straker  
Steven Kidwell  
Roger Morse  
Jim Dubbs  
Phylis Ritman  
Casey Allen  
Belva Conlon  
Ilene Liberti  
Henry Terhune  
David Stewart  
Maria Turro  
Louise Dayton

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## **ACTION - 2**

### Adoption of the Fairfax County Purchasing Resolution

#### ISSUE:

Park Authority Board adoption of the revised Fairfax County Purchasing Resolution, as enacted by the Board of Supervisors.

#### RECOMMENDATION:

The Park Authority Director recommends Park Authority Board adoption of the June 26, 2006 revised Fairfax County Purchasing Resolution.

#### TIMING:

Board action is requested on July 26, 2006.

#### BACKGROUND:

The County Board of Supervisors approved changes to the Fairfax County Purchasing Resolution outlined below on June 26, 2006, to become effective upon approval. These proposed changes incorporate modifications resulting from legislation enacted during the 2006 session of the Virginia General Assembly and other administrative changes recommended by staff. During the 2006 General Assembly, 48 bills were enacted related to procurement and/or contracts. Of this number, seven bills either modified a mandatory section of the Virginia Public Procurement Act (VPPA) or included changes recommended by staff. The remaining bills affected state agencies only, were duplicates of other bills, or did not have an impact on Fairfax County.

The current version of the Purchasing Resolution was adopted by the Park Authority Board on December 15, 2005. Modifications generally occur on annual basis to incorporate code changes resulting from legislation enacted during the annual session of the Virginia General Assembly related to procurement and/or contracts, as well as other changes recommended by staff. The agreement between the Park Authority and the Board of Supervisors stipulates that the Park Authority will comply with the County's purchasing and bidding policies and procedures. In that regard, the Park Authority follows the policies and procedures contained in the Fairfax County Purchasing Resolution.

Board Agenda Item  
June 26, 2006

The bills that impact the Park Authority are as follows:

- House Bill 458, Code Section §2.2-4304, will allow the Park Authority to utilize cooperative procurement for professional services with the exception of architectural and engineering services. Professional services are defined as accounting, actuarial services, architecture, dentistry and surveying, landscape architecture, laws, medicine, pharmacy, or professional engineering.
- House Bill 1183, Code Section §2.2-4301, will allow the Park Authority to make multiple awards for professional services contracts. It will be required that for each solicitation issued, the Park Authority should advise prospective offers that the Park Authority reserves the right to make more than one award when it is in the best interest of the Park Authority.
- House Bill 1416, Code Section §2.2-4303, will allow the Park Authority to establish design-build contracts for less than \$1,000,000 without Design-Build Review Board approval.
- Senate Bill 732, Code Sections §§2.2-4303, 2.2-4308, allows the County to request a one-time determination from the Design-Build Review Board that the County has the personnel, procedures, and expertise to enter into a construction contract, thus exempting further approvals from the Design-Build Review Board. The Department of Purchasing and Supply Management (DPSM) will call together representatives from all capital construction departments to develop a process for design-build contracts and will seek a wavier for future design-build contracts.
- Senate Bill 449, Code Section §2.2-1124, adds online public auctions as a means of disposing of surplus materials.

Administrative changes that will impact the Park Authority include:

1. Adds 'competitive negotiation' to the available sourcing techniques for construction contracts on state-aid projects, making the section consistent with the Virginia Public Procurement Act. Previously this section only mentioned competitive bidding as a source.
2. The Purchasing Agent may appoint non-county staff to the Selection Advisory Committee. The Park Authority may determine that certain contracts require the participation of citizen representatives on the Selection Advisory Committee.

Board Agenda Item  
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3. Clarifies documentation necessary to assess and rank the technical qualifications of a firm providing non-professional services by adding other factors deemed relevant to the transaction.
4. Clarifies and restates annual advertisement process requesting qualifications for architectural and engineering services costing less than \$100,000.
5. Clarifies category and value for property donations. Abandoned property is included in the categories of material to be follow disposal procedures prescribed in this section.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Index of Changes

Attachment 2: Revised Fairfax County Purchasing Resolution

STAFF:

Michael A. Kane, Director

Timothy K. White, Chief Operating Officer

Miriam Morrison, Director, Administration Division

Lynn Tadlock, Director, Planning and Development Division

John Lehman, Manager, Project Management Branch

Sue Frinks, Supervisor, Purchasing Branch

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Board Agenda Item  
June 26, 2006

**INDEX OF CHANGES**  
***FAIRFAX COUNTY PURCHASING RESOLUTION***  
**June 26, 2006**

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2. Allows for multiple awards for professional services contracts  
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5. Increases monetary threshold for which bid, payment, and performance bonds are required from \$100,000 to \$250,000 for transportation-related projects (House Bill 64, Code Sections §2.2-4336, 2.2-4337)..... 34
6. Adds the requirement to obtain performance and payment bonds for construction projects undertaken in spaces leased by public agencies (House Bill 1259, Code Section §2.2-4337) ..... 34
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# **FAIRFAX COUNTY**

## **PURCHASING RESOLUTION**



**June 26, 2006**

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## **FAIRFAX COUNTY PURCHASING RESOLUTION**

**WHEREAS, a central purchasing system is authorized by §15.2-1543 of the Code of Virginia, and is thus a part of the Urban County Executive Form of Government adopted by Fairfax County in 1951; and**

**WHEREAS, the Board of County Supervisors is dedicated to securing high quality goods and services at reasonable cost while ensuring that all purchasing actions be conducted in a fair and impartial manner with no impropriety or appearance thereof, that all qualified vendors have access to County business and that no offeror be arbitrarily or capriciously excluded, that procurement procedures involve openness and administrative efficiency, and that the maximum feasible degree of competition is achieved; and**

**WHEREAS, the Code of Virginia, §2.2-4300 through §2.2-4377 (as amended), enunciate the public policies pertaining to governmental procurement from nongovernmental sources by public bodies which may or may not result in monetary consideration for either party, which sections shall be known as the Virginia Public Procurement Act; and**

**WHEREAS, the Code of Virginia, §15.2-1236 (as amended) requires all purchases of and contracts for supplies, materials, equipment and contractual services shall be in accordance with Chapter 43 of Title 2.2 of the Code of Virginia; and**

**WHEREAS, the Code of Virginia, §2.2-4343 (as amended) allows implementation of the Virginia Public Procurement Act by ordinance, resolutions, or regulations consistent with this Act by a public body empowered by law to undertake the activities described by the Act; and**

**WHEREAS, the Code of Virginia, §15.2-1543, empowers the Board of Supervisors to employ a County Purchasing Agent and set his duties as prescribed by the Code of Virginia, §15.2-831, §15.2-1233 through §15.2-1240, and §15.2-1543;**

**THEREFORE BE IT RESOLVED that this resolution prescribes the basic policies for the conduct of all purchasing in Fairfax County (except as otherwise stipulated herein) to take effect immediately upon passage, as follows:**

# **FAIRFAX COUNTY PURCHASING RESOLUTION**

## **Article 1**

### **GENERAL PROVISIONS**

---

#### **Section 1. Title.**

**This resolution shall be known as the Fairfax County Purchasing Resolution.**

#### **Section 2. Organization.**

- a. The Department of Purchasing and Supply Management is a staff activity of the Fairfax County government, operating under the direction and supervision of the County Executive.**
- b. The Director of the Department of Purchasing and Supply Management shall be the County Purchasing Agent who shall have general supervision of the Department. The Purchasing Agent shall be appointed by the Board of County Supervisors upon recommendation of the County Executive.**
- c. The County Purchasing Agent may also act as purchasing agent for the Northern Virginia Workforce Investment Board (NVWIB). The County Purchasing Agent shall have the authority to approve all contract awards up to \$100,000 and the NVWIB shall have the authority to approve all contract awards that exceed \$100,000.**
- d. The primary duty of the County Purchasing Agent is to carry out the principles of modern central purchasing and supply management in accordance with applicable laws and regulations and with generally accepted professional standards in such a manner as to insure the maximum efficiency of governmental operation, and to give to County taxpayers the benefit in savings that such accepted business procedures are known to produce.**

#### **Section 3. Exceptions.**

- a. The procurement of architectural, engineering and related consultant services for construction projects and the contracting for construction projects are excluded from the duties of the County Purchasing Agent for the organizations as specified below:**

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

- 1. The Department of Public Works and Environmental Services, pursuant to §15.2-834 of the Code of Virginia, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, shall be responsible for Fairfax County construction projects and related architectural, engineering and consultant services. The Director, Department of Public Works and Environmental Services, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and conduct proceedings as outlined in Article 3 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.**
  - 2. The Fairfax County Public Schools shall be responsible for Fairfax County School Board capital construction and related architectural and engineering services per §22.1-79 of the Code of Virginia. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.**
  - 3. The Fairfax County Park Authority shall be responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the mandatory sections of the Code of Virginia.**
  - 4. The Department of Housing and Community Development shall be responsible for capital construction and related architectural and engineering services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority (per §36-19 of the Code of Virginia) or the Fairfax County Board of Supervisors, including contracts per §36-49.1:1 to carry out blight abatement. Execution of contracts under this section shall be conducted under the rules and regulations established by the Department of Housing and Community Development in accordance with the mandatory sections of the Code of Virginia.**
- b. The Fairfax County Public Schools shall be responsible for the procurement of goods and services for individual schools using funds generated from school activities. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.**

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

### **Section 4. Rules and Regulations.**

- a. **The County Purchasing Agent shall prepare and maintain the Fairfax County Purchasing Resolution and other rules and regulations consistent with the laws of the Commonwealth of Virginia governing the operations of the County purchasing and supply management system. The Purchasing Agent shall prescribe methods and procedures for conducting transactions electronically in accordance with this Resolution.**
- b. **The Agencies designated in Section 3 as authorized to contract for the acquisition of architectural and engineering and related consultant services for capital construction projects and to contract for capital construction projects, and to contract for goods and services for individual schools using funds generated from school activities shall also prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the County Executive for County staff agencies or the administrative head of the respective public body involved.**

### **Section 5. Cooperative Procurement.**

**The County or any entity identified in Section 3 may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.**

**As authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government.**

Ref. HB  
458, §2.2-  
4304

## FAIRFAX COUNTY PURCHASING RESOLUTION

### Section 6. Definitions.

- a. **Best Value**, as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.
- b. **Competitive Sealed Bidding** is a formal method of selecting the lowest responsive and responsible bidder. It includes the issuance of a written Invitation to Bid, public notice, a public bid opening and evaluation based on the requirements set forth in the invitation (See Article 2, Section 2a). Upon implementation of methods prescribed by the Purchasing Agent for conducting transactions electronically, an Invitation to Bid may be issued directly to vendors electronically, or bids in response thereto may be submitted electronically if specifically authorized in the Invitation to Bid.
- c. **Competitive Negotiation** is a formal method of selecting the top rated offeror. It includes the issuance of a written Request for Proposals, public notice, evaluation based on the criteria set forth in the Request for Proposals, and allows negotiation with the top rated offeror or offerors (See Article 2, Section 2b). Upon implementation of methods prescribed by the Purchasing Agent for conducting transactions electronically, a Request for Proposal may be issued directly to vendors electronically, or proposals received in response may be submitted electronically if specifically authorized in the Request for Proposal.
- d. **Construction** shall mean building, altering, repairing, improving or demolishing any structure, building, road, drainage, or sanitary facility, and any draining, dredging, excavation, grading or similar work upon real property.
- e. **Construction Management Contract** shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.
- f. **Consultant Services** shall mean any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.
- g. **Design-build contract** shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

- h. DPSM shall mean the Department of Purchasing and Supply Management**
- i. Emergency shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, or when any unforeseen circumstances arise causing curtailment or diminution of essential service.**
- j. Excess Property shall mean that property which exceeds the requirement of the Agency to which the property is assigned.**
- k. FCPS shall mean Fairfax County Public Schools.**
- l. Faith-Based Organization shall mean a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P. L. 104-193.**
- m. Firm shall mean any individual, partnership, corporation, association, or other legal entity permitted by law to conduct business in the Commonwealth of Virginia; or any other individual, firm, partnership, corporation, association or other legal entity qualified to perform professional services, non-professional or consultant services.**
- n. Fixed Asset shall mean a tangible item (not a component) which has an expected useful life of at least one year and a dollar value in excess of \$5,000.**
- o. Goods shall mean all material, equipment, supplies, printing, and information technology hardware and software.**
- p. Immediate Family shall mean a spouse, child, parent, brother, sister, and any other person living in the same household as the employee.**
- q. Ineligibility shall mean an action taken to suspend or debar an individual or firm from consideration for award of contracts. The suspension shall not be for a period exceeding three (3) months and the debarment shall not be for a period exceeding three (3) years.**
- r. Informality shall mean a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid or the Request for Proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.**
- s. Nonprofessional Services shall mean any service not specifically identified as a professional or consultant service.**

## FAIRFAX COUNTY PURCHASING RESOLUTION

- t. Official Responsibility shall mean administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any resulting claim.**
- u. Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural and engineering design services to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.**
- v. Pecuniary Interest Arising From the Procurement shall mean a personal interest in a contract, as defined in the State and Local Government Conflict of Interests Act.**
- w. Potential Bidder or Offeror shall mean a person who, at the time the County negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.**
- x. Procurement Transaction shall mean all functions that pertain to obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.**
- y. Professional services shall mean any type of service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with this Resolution)**
- z. Public Body shall mean any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this resolution.**
- aa. Public Contract shall mean an agreement between a public body and a nongovernmental source that is enforceable in a court of law.**
- bb. Public or County Employee shall mean any person employed by the County of Fairfax, including elected officials or appointed members of governing bodies.**

## FAIRFAX COUNTY PURCHASING RESOLUTION

- cc. **Responsible Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has the capability in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.**
- dd. **Responsive Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has submitted a bid which conforms in all material respects to the Invitation to Bid or Request for Proposal.**
- ee. **Reverse Auctioning shall mean a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services, but not construction or professional services, through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidder's prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.**
- ff. **SAC shall mean Selection Advisory Committee.**
- gg. **Services shall mean any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.**
- hh. **Sheltered Workshop shall mean a work-oriented rehabilitative facility with a controlled working environment and individual goals which utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.**
- ii. **Surplus Property shall mean that property which exceeds the requirement of the entire County.**



# **FAIRFAX COUNTY PURCHASING RESOLUTION**

## **Article 2**

### **PURCHASING POLICIES**

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#### **Section 1. General**

- a. Unless otherwise authorized by law, all Fairfax County contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, construction, or construction management, shall be awarded after competitive sealed bidding or competitive negotiation, except as otherwise provided for in this Resolution or law.**
- b. Professional services shall be procured using competitive negotiation, except as otherwise provided for in this Article. Procurement of professional services involving an individual as opposed to all other firms will require review by the Department of Human Resources, if the total expenditure equals or exceeds \$5,000, to ensure that contracts for these services will not undermine the Merit System of employment or subvert pay limitations or competitive employment procedures.**
- c. Consultant services may be procured using competitive negotiation, except as otherwise provided for in the Article. Procurement of consultant services involving an individual as opposed to all other firms will require review by the Department of Human Resources, if the total expenditure equals or exceeds \$5,000, to ensure that contracts for these services will not undermine the Merit System of employment or subvert pay limitations or competitive employment procedures.**
- d. Upon written determination made in advance that competitive sealed bidding is either not practical or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for the determination and shall be included in the appropriate contract file.**
- e. Construction may be procured by competitive negotiation as set forth in the Code of Virginia, subsection D of §2.2-4303 for: a) the construction, alteration, repair, renovation or demolition of buildings, when the contract is not expected to cost more than \$1 million; b) the construction of highways and any draining, dredging, excavation, grading or similar work upon real property.**
- f. Paper and paper products shall be procured using competitive sealed bidding. Award shall be made to the lowest responsive and responsible bidder offering recycled paper and paper products of a quality suitable for the purpose intended providing that the bid price**

## FAIRFAX COUNTY PURCHASING RESOLUTION

is not more than 10 percent greater than the bid price of the lowest responsive and responsible bidder offering non-recycled paper and paper products. Recycled paper and paper products means any paper or paper products meeting the EPA Recommended Content Standards defined in 40 C.F.R. Part 250.

Ref. §2.2-4305

- g. No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of \$30,000 or more in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive bidding or competitive negotiation as provided in this Resolution and law. The procedure for the advertising for bids and letting of the contract shall conform, mutatis mutandis, to the Virginia Public Procurement Act.
- h. The County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis consistent with this Resolution and law.
- i. Certification of sufficient funds; orders and contracts in violation of Code of Virginia, §15.2-1238: - Except in emergency, no order for delivery on a contract or open market order for supplies, materials, equipment, professional and consultant services or contractual services for any County department or agency shall be awarded until the Director of Finance shall have certified that the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order. Whenever any department or agency of the County government shall purchase or contract for any supplies, materials, equipment or contractual services contrary to the provisions of §15.2-1238 of the Code of Virginia or the rules and regulations made thereunder, such order or contract shall be void and of no effect. The head of such department or agency shall be personally liable for the costs of such orders and contracts.
- j. No County construction contract shall waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay, in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent such delay is caused by acts or omissions of the County, its agents or employees and due to causes within their control.
  - 1. Subsection j shall not be construed to render void any provision of a County construction contract that:
    - (a) Allows the County to recover that portion of delay costs caused by the acts or omissions of the contractor, or its subcontractor, agents or employees;
    - (b) Requires notice of any delay by the party claiming the delay;

## FAIRFAX COUNTY PURCHASING RESOLUTION

- (c) Provides for liquidated damages for delay; or
  - (d) Provides for arbitration or any other procedure designed to settle contract disputes.
- 2. A contractor making a claim against the County for costs or damages due to the alleged delaying of the contractor in the performance of its work under any County construction contract shall be liable to the County and shall pay the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.
- 3. A public body denying a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the County shall be equal to the percentage of the contractor's total delay claim for which the County's denial is determined through litigation or arbitration to have been made in bad faith.
- k. Notwithstanding any other provision of law, the County may, as provided in the Code of Virginia, §2.2-4327, provide by resolution that in determining the award of any contract for time deposits or investment of its funds, the Director of Finance may consider, in addition to the typical criteria, the investment activities of qualifying institutions that enhance the supply of, or accessibility to, affordable housing within the jurisdiction. No more than fifty percent of the funds of the county, calculated on the basis of the average daily balance of the general fund during the previous fiscal year, may be deposited or invested by considering such investment activities as a factor in the award of a contract. A qualifying institution shall meet the provisions of the Virginia Security for Public Deposits Act (§2.2-4400 et seq.) and all local terms and conditions for security, liquidity and rate of return.
- l. Best value concepts may be considered when procuring goods, nonprofessional and consultant services, but not construction or professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.
- m. The County may enter into contracts with faith-based organizations on the same basis as any other nongovernmental source subject to the requirements of the Virginia Public Procurement Act (VPPA) §2.2-4343.1.

# FAIRFAX COUNTY PURCHASING RESOLUTION

## Section 2. Methods of Procurement.

A. **Competitive Sealed Bidding**,- is a method of contractor selection which includes the following elements:

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the purchase. Unless the County has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, a solicitation may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.
2. Public notice of the Invitation to Bid at least five days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of county wide circulation, or both. Public notice may also be published on the Department of Purchasing and Supply Management web site and other appropriate web sites. In addition, bids may be solicited directly from potential vendors.
3. Public opening and posting of all bids received.
4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential vendors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.
5. Award to the lowest responsive and responsible bidder. Multiple awards may be made when so specified in the Invitation to Bid.

B. **Competitive Negotiation**,- is a method of contractor selection which includes the following elements:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

- 2. Public notice of the Request for Proposal at least five days prior to the date set for receipt of proposals by posting in a designated public area or by publication in a newspaper of county wide circulation or both. Public notice may also be published on the Department of Purchasing and Supply Management web site and other appropriate web sites. In addition, proposals may be solicited directly from potential vendors.**
- 3. Competitive Negotiation – Consultant Services**
  - a. Selection Advisory Committee**
    - 1. When selecting a firm for consultant services where the compensation for such services is estimated to exceed \$50,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those consultant services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.**
    - 2. When selecting a firm for consultant services, where the compensation for such consultant services is estimated to be less than \$50,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those consultant services firms that are to be retained by the County or an agency of the County.**
    - 3. Minutes of Selection Advisory Committee deliberations and records or votes taken shall be maintained for at least three years. Minutes shall detail pertinent reasons for committee recommendations and be available for review by the general public upon request.**
  - b. Public Announcement**
    - 1. When consultant services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for consultant services is estimated to be less than \$50,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.**

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

### **c. Selection, Negotiation and Approval Process.**

**1. The Selection Advisory Committee shall rank all responsive proposals deemed to be qualified to perform the required services after considering such factors as the ability of personnel; past performance; ability to meet time and budget requirements; location; recent, current and projected workload of the firms; and the volume of work previously awarded by the County with the object of effecting an equitable distribution of contracts among qualified firms, provided, however, that such distribution does not violate the principle of selection of the most qualified firm and consideration of their ability to meet time requirements.**

**2. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.**

**3. All proposed contracts for consultant services, where the compensation to be paid exceeds \$100,000, the Director of DPSM or other Authorized Agency, after review of the SAC recommendation will recommend to the County Executive, or the FCPS Division Superintendent those consultant services to be retained by the County or an agency of the County. The proposed contracts shall be submitted to the Board of Supervisors and/or the School Board as an Information Item prior to final execution. Full and adequate explanation of the selection criteria and fee determination shall be presented with the contract in such form as required by the County Executive or the Division Superintendent, FCPS.**

**4. All proposed contracts for consultant services, where the compensation to be paid is less than \$100,000, shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.**

**5. For all cost-plus-a-fixed-fee consultant services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification**

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any consultant services contract under which such a certificate is required shall contain a provision that the original contract price and any additions shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

#### **4. Competitive Negotiation – Professional Services**

##### **a. Selection Advisory Committee.**

1. When selecting a firm for professional services where the compensation for such professional services is estimated to exceed \$30,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those professional services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.

2. When selecting a firm for professional services, where the compensation for such professional services is estimated to be less than \$30,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those professional services firms that are to be retained by the County or an agency of the County.

3. Minutes of Selection Advisory Committee deliberations and records or votes taken shall be maintained for at least three years. Minutes shall detail pertinent reasons for committee recommendations and be available for review by the general public upon request.

##### **b. Public Announcement and Qualifications for Professional Services.**

1. When professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for such professional services is estimated to be less than \$30,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.

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2. For architectural or engineering services estimated to cost less than \$100,000, an annual advertisement requesting qualifications from interested architectural or engineering firms will meet the requirements of paragraph (1) above. The County shall make a finding that the firm to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record of performance, and experience of the firm.

c. Selection, Negotiation, and Approval Process

1. Selection of Professional Services: Where the cost is expected to exceed \$30,000, the County shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the County may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the County shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. DPSM or other Authorized Agency, with the aid of the Selection Advisory Committee, shall negotiate a proposed contract with the highest qualified firm for the professional services required. The firm deemed to be the most qualified will be required to disclose its fee structure during negotiation. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, the County may award contracts to more than one offeror.

HB 1183,  
§2.2-4301

2. All proposed contracts for professional services, where the compensation to be paid exceeds \$100,000, the Director of DPSM or other Authorized Agency, after

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

review of the SAC recommendation will recommend to the County Executive, or the FCPS Division Superintendent those professional services to be retained by the County or an agency of the County. The proposed contracts shall be submitted to the Board of Supervisors and/or the School Board as an Information Item prior to final execution. Full and adequate explanation of the selection criteria and fee determination shall be presented with the contract in such form as required by the County Executive or the Division Superintendent, FCPS.

3. All proposed contracts for professional services, where the compensation to be paid is less than \$100,000, shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

4. For all cost-plus-a-fixed-fee professional services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional services contract under which such a certificate is required shall contain a provision that the original contract price and any addition thereto shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

5. Multiphase professional services contracts satisfactory and advantageous to the County for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the County shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the County require awarding the contract.

6. A contract for architectural or professional engineering services relating to construction projects may be negotiated by the County for multiple projects in accordance with the Virginia Public Procurement Act (VPPA), Subdivision 3a, of §2.2-4301.

### **5. Competitive Negotiation – Non-Professional Services**

#### **a. Selection Advisory Committee**

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**1. When selecting a firm for non-professional services where the compensation is estimated to exceed \$50,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those non-professional services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.**

**2. When selecting a firm for non-professional services, where the compensation is estimated to be less than \$50,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those non-professional services firms that are to be retained by the County or an agency of the County.**

**b. Public Announcement**

**1. When non-professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for non-professional services is estimated to be less than \$50,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.**

**c. Selection, Negotiation and Approval Process.**

**1. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.**

**2. All proposed contracts for non-professional services shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.**

## FAIRFAX COUNTY PURCHASING RESOLUTION

### 6. Competitive Negotiation – Construction Management / Design Build Services

#### a. Determination

1. The County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis in accordance with the Virginia Public Procurement Act (VPPA) §2.2-4308. Prior to issuing a Request for Proposal for any design-build or construction management project, the Purchasing Agent or Other Authorized Agency will document that a) the design-build or construction management contract is more advantageous than a competitive sealed bid construction contract, b) there is a benefit to the County by using a design-build or construction management contract, and c) competitive sealed bidding is not practical or fiscally advantageous. Such documentation, including the proposed Request for Proposal, will be presented to the Board of Supervisors or School Board, as appropriate, for approval, and upon such approval, shall be submitted to the Commonwealth of Virginia's Design-Build/Construction Management Review Board ("Review Board"). The Review Board is authorized to review and approve a public body's draft or adopted procedures governing the evaluation and award of design-build and construction management contracts. Once approved by the Review Board, the County may proceed with the design-build or construction management contracting process.

HB 1416,  
§2.2-4303

2. Construction may be procured by competitive negotiation on a fixed price design-build or construction management basis as set forth in the Code of Virginia, subsection D of §2.2-4303 when the contract is not expected to cost more than \$1 million.

Ref. SB 732,  
§2.2-4303

3. Construction may be procured by competitive negotiation on a fixed price design-build or construction management basis as set forth in the Code of Virginia §2.2-4308 upon a one-time determination by the Review Board that the County has the personnel, procedures, and expertise to enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis, provided that projects undertaken by the County shall be exempt only from approval of the Design-Build/Construction Management Review Board and shall otherwise be in compliance with the provisions of Virginia Code, § 2.2-4308, and other applicable law governing design-build or construction management contracts for public bodies other than the Commonwealth. The Fairfax County procedures shall be consistent with the two-step competitive negotiation process established in § 2.2-4301.

#### b. Selection Advisory Committee

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

1. The Purchasing Agent or Other Authorized Agency shall appoint a Selection Advisory Committee which will include a licensed professional engineer or architect with professional competence appropriate to the proposed project. The licensed professional engineer or architect shall advise the County regarding the use of design-build or construction management project and will assist with the preparation of the Request for Proposal consistent with this Resolution for competitive negotiation of non-professional services, and will assist in the evaluation of proposals. The licensed professional engineer or architect services may be provided under a professional services contract by a qualified person or firm.

**c. Selection, Evaluation and Award of Construction Management or Design-Build Contracts.**

1. Design Requirements. The Request for Proposal shall include and define the criteria of the construction project in the areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; special telecommunications; and may define such other requirements as the County determines appropriate for the particular construction project.

2. Selection, Evaluation and Award Factors. Proposal evaluation factors and other source selection criteria shall be included in the Request for Proposal for the specific design-build or construction management project.

3. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

4. All proposed contracts for construction management or design-build services shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

5. Post-Project Review. The County will provide post-project evaluation information, such as cost and time savings, effectiveness of the selection, evaluation

## FAIRFAX COUNTY PURCHASING RESOLUTION

and award of such contracts, and the benefit to Fairfax County, to the Design-Build/Construction Management Review Board.

6. Projects undertaken pursuant to Article 2, Section 1.e(a) of this Resolution shall be exempt from approval of the Review Board.

C. **Emergency.**- In case of an emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practical under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the appropriate contract or purchase order file. In addition, a notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the County awards or announces its decision to award the contract, whichever occurs first. Public notice may also be published on the Department of Purchasing and Supply Management web site and other appropriate web sites.

1. If an emergency occurs during regular County business hours, the head of the using agency shall immediately notify the County Purchasing Agent who shall either purchase the required goods or services or authorize the agency head to do so.

2. If an emergency occurs at times other than regular County business hours, the using agency head may purchase the required goods or services directly. The agency head shall, however, when practical, secure competitive oral or written bids and order delivery to be made by the lowest responsive and responsible bidder. The agency head shall also, not later than the next regular County business day, submit to the County Purchasing Agent a requisition, a tabulation of the bids received, if any, a copy of the delivery record and a brief explanation of the circumstances of the emergency.

3. The County Purchasing Agent shall maintain a record of all emergency purchases supporting the particular basis upon which the emergency purchase was made. Such records shall be available for public inspection during regular County business hours in the office of the County Purchasing Agent.

D. **Open Market.**- Any Fairfax County contract for the purchase or lease of goods, consultant or nonprofessional services, or for the purchase of insurance, construction, or construction management when the estimated cost is less than \$50,000 in value, shall be deemed an open market transaction and shall not be subject to the rules governing competitive sealed bidding or competitive negotiation. However, the County Purchasing Agent shall, wherever possible, solicit at least four written competitive bids on all open market transactions estimated to exceed \$10,000 in value; and solicit at least three oral or

## FAIRFAX COUNTY PURCHASING RESOLUTION

written quotes for purchase transactions estimated between \$5,000 - \$10,000. The rules and regulations adopted pursuant to Section 4 of Article 1 of this Resolution shall prescribe in detail the procedures to be observed in giving notice to prospective bidders, in tabulating and recording bids, in opening bids, in making purchases from the lowest responsive and responsible bidder, and in maintaining records of all open market transactions for public inspection.

- E. Public Private Education Facilities and Infrastructure.**- The “Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)” provides public entities an option for either approving an unsolicited proposal from a private entity or soliciting request for proposals or invitation for bids from private entities. Such projects are exempt from the Virginia Public Procurement Act. The County has developed procedures that are consistent with the principles of the PPEA and adopted by the Board of Supervisors.
- F. Reverse Auctioning.**- The purchase of goods, consultant or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.
- G. Small Purchase.**- Any purchase or lease of goods, professional, consultant, or nonprofessional services, or for the purchase of insurance, construction, or construction management, when the estimated cost is less than \$5,000, shall be deemed a small purchase and shall not be subject to the rules governing the formal competitive bidding process. However, the County Purchasing Agent shall, wherever possible, attempt to place small purchases with vendors having an existing contract with the County or who have registered on the Commonwealth of Virginia’s “eVA” central vendor registration system.
- H. Sole Source.**- Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. A written record documenting the basis for this determination shall be included in the appropriate contract file or other records of the procurement. In addition, a notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the County awards or announces its decision to award the contract, whichever occurs first. Public notice may also be published on the Department of Purchasing and Supply Management web site and other appropriate web sites.

### **Section 3. Exceptions to the Requirement for Competitive Procurement.**

- a. Auction:** Upon a determination in writing by the County Purchasing Agent that the purchase of goods, products or commodities from a public auction sale is in the best

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interests of the County, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

- b. Instructional Materials and Office Supplies:** Instructional materials and office supplies which are not stocked or purchased by the Fairfax County School Board pursuant to an existing County contract may be purchased by school principals designated by the School Board. Such purchases shall be conducted in accordance with rules and regulations adopted by the School Board pursuant to §22.1-122.1 of the Code of Virginia. With the exception of textbooks and instructional computer software that have been approved by the State Board of Education and the Fairfax County School Board, no single purchase may exceed the small purchase dollar level (as set forth in Article 2, Section 2.g.). The rules and regulations adopted by the School Board shall prescribe in detail the procedures to be observed in making purchases of instructional materials, establishing accounts for purchases, accounting for the receipt and disbursement of funds, and maintaining records of all transactions. The purchases authorized herein shall be made using funds from accounts established by the School Board solely for such purchases.
- c. Insurance / Electric Utility Services:** As provided in the Code of Virginia, subdivision 13 of §2.2-4345, the County may enter into contracts without competitive sealed bidding or competitive negotiation for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles.
- d. Insurance:** Upon a written determination made in advance by the County Purchasing Agent that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subdivision 3b of §2.2-4301 of the Virginia Public Procurement Act.
- e. Litigation / Regulatory Proceedings:** The County (or any public body that has adopted this Resolution) may enter into contracts without competition for (1) legal services; (2) expert witnesses; and (3) other services associated with litigation or regulatory proceedings.
- f. Public Assistance Programs:** The County may procure goods or personal services without competition for direct use by a recipient of County administered public assistance programs as defined by §63.2-100 of the Code of Virginia, or the fuel assistance program, or community services board as defined in §37.1-1, or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§16.1-309.2 et seq.) provided such

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good or service is delivered by a vendor upon specific instructions from the appropriate employee of the County. Contracts for the bulk procurement of goods and services for use of recipients shall not be exempted from the requirements of competitive procurement.

- g. **Remedial Plan:** The purchase of goods and services when such purchases are made under a remedial plan established by the County Executive pursuant to Va Code §15.2-965.1.
- h. **Workshops:** The County Purchasing Agent may enter into contracts without competition for the purchase of goods or services which are produced or performed by persons or in schools or workshops under the supervision of the Virginia Department for the Visually Handicapped; or which are produced or performed by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services servicing the handicapped, provided that the goods or services can be purchased within ten percent of their fair market value, will be of acceptable quality and can be produced in sufficient quantities and within the time required.

### **Section 4. General Purchasing Provisions.**

#### **a. Competitive Solicitation Process.**

1. The County Purchasing Agent shall solicit bids from all responsible prospective vendors who have registered their firm to be included on the Commonwealth of Virginia's "eVA" central vendor registration system for all solicitations using the competitive sealed bidding and competitive negotiation methods of procurement. The eVA vendor registration system shall also be used to identify bidders to be solicited for open market transactions. Other potential vendors may be solicited at the discretion of the County Purchasing Agent.
2. The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or open market transaction methods of procurement. In submitting a bid or proposal each bidder shall, by virtue of submitting a bid, guarantee that the bidder has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bid of such bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor shall render the entire proceedings void and shall require readvertising for bids.
3. All solicitations shall include the following provisions:

  - (a) Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official

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responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.

(b) Whenever there is reason to believe that a financial benefit of the sort described in paragraph (a) has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

4. Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named: it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

5. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

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**(a) Any prequalification of prospective contractors for construction by the County shall be pursuant to a prequalification process for construction projects as outlined below.**

**1. The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information pursuant to Article 2, Section 4, Paragraph f.3.**

**2. In all instances in which the County requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.**

**3. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.**

**4. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. The prospective contractor may not institute legal action until all statutory requirements have been met.**

**6. The County may deny prequalification to any contractor only if the County finds one of the following:**

**(a) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety**

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corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

(b) The contractor does not have appropriate experience to perform the construction project in question;

(c) The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

(d) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

(e) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;

(f) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

(g) The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (1) through (7) of this subsection.

(h) The contractor fails to meet the eligibility criteria of the most recently adopted version of the Fairfax County Construction Safety Resolution.

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1. If the County has a prequalification ordinance that provides for minority participation in municipal construction contracts, that public body may also deny prequalification based on minority participation criteria, provided, however, that nothing herein shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the Commonwealth.
7. Prospective contractors may be debarred from contracting for particular types of goods, services, insurance, or construction, for specified periods of time. The debarment procedures are set forth under Article 3, Section 1.
8. The County shall establish procedures whereby comments concerning specifications or other provisions in Invitations to Bid or Requests for Proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.
9. Withdrawal of bids by a bidder.

  - (a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. One of the following procedures for withdrawal of a bid shall be selected by the County and stated in the advertisement for bids:
  - (b) The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

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(c) The bidder shall submit to the public body or designated official his original work papers, documents, and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for opening of bids. The bids shall be opened one day following the time fixed by the public body for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract shall not be awarded by the public body until the two-hour period has elapsed. Such mistake shall be proved only from the original work papers, documents and materials delivered as required herein.

(d) A bidder for a contract other than for public construction may request withdrawal of their bid under the following circumstances:

1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.
2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.
3. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.
4. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.
5. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
6. If the County denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

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7. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of Article 2, Section 4, Paragraph f.3.

**b. Contract Award Process.**

1. The County Purchasing Agent shall have the authority to waive informalities in bids, reject all bids, parts of all bids, or all bids for any one or more good or service included in a solicitation when in his judgment the public interest is best served. If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of readvertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if none, to the resident Virginia tie bidder, or if none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services.
2. The County Purchasing Agent shall be responsible for determining the responsibility of a bidder. In determining responsibility, the following criteria will be considered:
  - (a) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
  - (b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
  - (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
  - (d) The quality of performance of previous contracts or services;
  - (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
  - (f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  - (g) The quality, availability and adaptability of the goods or services to the particular use required;

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- (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;**
  - (i) The number and scope of the conditions attached to the bid;**
  - (j) Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and**
  - (k) Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.**
- 3. All contracts shall be approved as to form by the County Attorney or other qualified attorney and a copy of each long-term contract shall be filed with the Chief Financial Officer of the County.**
- 4. Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, the County may negotiate with the apparent low bidder to obtain a contract price within available funds; however, such negotiations may be undertaken only under conditions and procedures described in writing and approved by the County prior to issuance of the Invitation to Bid.**
- 5. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the Purchasing Agent. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.**
- 6. In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with not more than five percent being retained to be included in the final payment. Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.**
- 7. Every contract awarded through competitive sealed bidding or competitive negotiation shall contain the following: During the performance of a contract, the**

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contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this Resolution, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

c. .Non Discrimination.-

The County will not discriminate against a bidder or offeror because of race, color, religion, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity. In accordance with the policy of the County Small Business Enterprise Program, every effort shall be made to actively and diligently promote the procurement of facilities, supplies and services from small businesses and minority-owned businesses in all aspects of procurement to the maximum extent feasible. Every contract shall include the following provisions:

1. During the performance of this contract, the contractor agrees as follows:
  - (a) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - (b) The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

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- (c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this provision.
- (d) The contractor will include the provisions of paragraphs (a), (b), and (c) above in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

**d. Disclosure of Information.-**

Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.

1. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
2. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in (3). Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
3. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to Article 2, Section 4a, paragraph 5 shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.
4. Nothing contained in this section shall be construed to require the County, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

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### e. Bonds.-

HB 64, §2.2-4336 and 2.2-4337

1. Except in cases of emergency, all bids or proposals for nontransportation-related construction contracts in excess of \$100,000 or transportation-related projects authorized under §33.1-12 that are in excess of \$250,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

No forfeiture under a bid bond shall exceed the lesser of:

- (a) the difference between the bid for which the bond was written and the next low bid, or
- (b) the face amount of the bid bond.

Nothing in this section shall preclude the County from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000 for nontransportation-related projects or \$250,000 for transportation-related projects authorized under §33.1-12 and partially or wholly funded by the Commonwealth.

2. Performance and payment bonds:

HB 64 and HB 1259, §2.2-4337

- (a) Upon the award of any (i) public construction contract exceeding \$100,000 awarded to any prime contractor, (ii) construction contract exceeding \$100,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body, or (iii) transportation-related projects exceeding \$250,000 that are partially or wholly funded by the Commonwealth, or (iv) construction contract exceeding \$100,000 in which the performance of labor or the furnishing of materials will be paid with public funds, the contractor shall furnish to the County the following bonds:
  - (1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under §33.1-12, such bond shall be in a form and amount satisfactory to the public body.

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- (2) A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. For transportation-related projects authorized under §33.1-12 and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the public body. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.
  - (b) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.
  - (c) Such bonds shall be payable to the County of Fairfax and filed with the County or a designated office or official.
  - (d) Nothing in this section shall preclude the County from requiring payment or performance bonds for construction contracts below \$100,000 for nontransportation-related projects or \$250,000 for transportation-related projects authorized under §33.1-12 and partially or wholly funded by the Commonwealth.
  - (e) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.
- 3. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.
- 4. Actions on payment bonds:
  - (a) Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which

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a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

- (b) Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.
- (c) Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.
- (d) Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

**5. Alternative forms of security:**

- (a) In lieu of a bid, payment or performance bond a bidder may furnish a certified check or cash escrow in the face amount required for the bond.
- (b) If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.

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6. The County may, at the discretion of the County Purchasing Agent, require bid, payment or performance bonds for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.

**f. Escrow Accounts.-**

1. The County, when contracting directly with contractors for public contracts of \$200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations, where portions of the contract price are to be retained, shall include an option in the bid or proposal for the contractor to use an Escrow account procedure for utilization of the County's retainage funds by so indicating in the space provided in the bid or proposal documents and executing the Escrow Agreement form provided by the County. In the event the contractor elects to use the Escrow account procedure, the Escrow Agreement form shall be executed and submitted to the County within fifteen days after receipt of notification of contract award by the contractor.
2. The executed Escrow Agreement Form shall be submitted to the Office designated in the bid or proposal documents. If the Escrow Agreement Form is not submitted to the designated office within the fifteen day period, the contractor shall forfeit his rights to the use of the Escrow account procedure.
3. The Purchasing Agent shall promulgate escrow regulations. In order to have retained funds paid to an escrow agent, the contractor, the escrow agent and the surety shall execute the Escrow Agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth and shall satisfy escrow agent qualifications promulgated by the Purchasing Agent.
4. This subsection f. shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.
5. Any such public contract for construction with the County which includes payment of interest on retained funds, may include a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

6. Any subcontract for such public project that provides for similar progress payments shall be subject to the provisions of this section.
7. This subsection f. shall apply to contracts as provided in the Code of Virginia, §2.2-4334.

### **Section 5. Compliance with Conditions on Federal Grants or Contract.**

Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the policy of full and open competition, the County Purchasing Agent may comply with the federal requirements only upon written determination by the County Executive and/or Board of Supervisors that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provisions of this section in conflict with the conditions of the grant or contract.

### **Section 6. Audit by the County.**

All contracts and amendments entered into by negotiation, shall include a provision permitting the County or its agent to have access to and the right to examine any books, documents, papers, and records of the contractor involving transactions related to the contract or compliance with any clauses thereunder, for a period of three (3) years after final payment. The contractor shall include these same provisions in all related subcontracts.

### **Section 7. HIPAA Compliance.**

Fairfax County Government has designated certain health care components as covered by the Health Insurance Portability and Accountability Act of 1996. The successful vendor may be designated a business associate pursuant to 45 CFR part 164.504(e) and 164.308 (b) of those agencies identified as health care components of the County, including the Fairfax-Falls Church Community Services Board, upon award of contract. The successful vendor must adhere to all relevant federal, state, and local confidentiality and privacy laws, regulations, and contractual provisions of the Fairfax County Business Associate agreement. These laws and regulations include, but are not limited to: (1) HIPAA – 42 USC 201, et seq., and 45 CFR Parts 160 and 164; and (2) Va Code – Title 32.1, Health, § 32.1-1 et seq. The vendor shall have in place appropriate administrative, technical, and physical safeguards to ensure the privacy and confidentiality of protected health information. Additional information may be obtained by going to the Fairfax County Web site at: <http://www.fairfaxcounty.gov/hipaa>.



# **FAIRFAX COUNTY PURCHASING RESOLUTION**

## **Article 3**

### **BIDDER/CONTRACTOR REMEDIES**

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#### **Section 1. Ineligibility.**

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.**
  - 1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.**
  - 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.**
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:**
  - 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;**
  - 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;**
  - 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;**
  - 4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:**
    - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or**

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

- (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;
  - 5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
  - 6. The contractor has abandoned performance or been terminated for default on any other Fairfax County project;
  - 7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

### **Section 2. Appeal of Denial of Withdrawal of Bid.**

- a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.
- b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4a, paragraph 8, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.
- c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

### **Section 3. Appeal of Determination of Nonresponsibility.**

- a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.
- b. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

### **Section 4. Protest of Award or Decision to Award.**

- a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 2, Section 2. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4 f, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4 f, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.

## FAIRFAX COUNTY PURCHASING RESOLUTION

- b. If, prior to award, it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.
- c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.
- d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

### Section 5. Contractual Disputes.

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the contractor within thirty (30) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

### **Section 6. Legal Action.**

**No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.**



# **FAIRFAX COUNTY PURCHASING RESOLUTION**

## **Article 4**

### **ETHICS IN COUNTY CONTRACTING**

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#### **Section 1. General.**

- a. The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§2.2-3100 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), and Articles 2 (§18.2-438 et seq.) and 3 (§18.2-446 et seq.) of Chapter 10 of Title 18.2. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.
- b. No County employee having official responsibility for a procurement transaction (except as may be specifically allowed by subdivisions of A2, A3 and A4 of §2.2-3112) shall participate in that transaction on behalf of the County when the employee knows that:
  - 1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or,
  - 2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror, or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or,
  - 3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or,
  - 4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

#### **Section 2. Solicitation or Acceptance of Gifts.**

No County employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The County may recover the value of anything conveyed in violation of this section.

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

### **Section 3. Disclosure of Subsequent Employment.**

No County employee or former County employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the County employee or former County employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the County unless the County employee, or former County employee, provides written notification to the County prior to commencement of employment by that bidder, offeror or contractor.

### **Section 4. Gifts.**

No bidder, offeror, contractor or subcontractor shall confer upon any County employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

### **Section 5. Kickbacks.**

- a. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.
- b. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
- c. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a County contract.
- d. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.
- e. No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of the County shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the County may permit such person to submit a bid or proposal for that procurement or any portion thereof if the County determines that the exclusion of such person would limit the number of potential

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

qualified bidders or offerors in a manner contrary to the best interests of the County.

- f. The provisions of Section 5 (e) shall not affect the validity of any procurement contract entered into prior to July 1, 1997.

### **Section 6. Purchase of Building Materials, etc., from Architect or Engineer Prohibited.**

- a. No building materials, supplies or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person employed as an independent contractor by the County to furnish architectural or engineering services, but not construction, for such building or structure; or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in §2.2-3101 of the Code of Virginia.
- b. No building materials, supplies, or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies, or equipment to be used in such building or structure to the independent contractor employed by the County to furnish architectural or engineering services in which such person has a personal interest as defined in §2.2-3101 of the Code of Virginia.
- c. The provisions of this Section shall not apply in the case of emergency.

### **Section 7. Certification of Compliance; Penalty for False Statements.**

- a. The County may require County employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this section.
- b. Any County employee required to submit a certification as provided in subsection a. of this section who knowingly makes a false statement in such certification shall be punished as provided in §2.2-4377 of the Code of Virginia.

### **Section 8. Misrepresentations.**

No County employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

### **Section 9. Penalty for Violation.**

The penalty for violations of any of the provisions under Article 4 of this Resolution is provided in the Code of Virginia, §2.2-4377.



# FAIRFAX COUNTY PURCHASING RESOLUTION

## Article 5

### SUPPLY MANAGEMENT

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The Director of the Department of Purchasing and Supply Management is responsible for the management of all supplies and equipment except as excluded by formal agreement between the County and other public bodies. This includes, inventory management of consumable supplies, disposition of excess and surplus property and the physical accountability of fixed assets.

#### Section 1. Item Identification.

- a. The Director of the Department of Purchasing and Supply Management will establish and maintain a County identification numbering system for items used. The system, Fairfax County Identification Number (FCIN), will be maintained online via the County and Schools Procurement System (CASPS).

#### Section 2. Inventory Management.

- a. The Director of the Department of Purchasing and Supply Management is responsible for operation of the County Consolidated Warehouse which serves as the central receiving point for supplies and equipment and provides temporary storage and distribution of the supplies and equipment to all County agencies. The Warehouse may be used as the storage point for goods on consignment from other departments.
- b. The Director of the Department of Purchasing and Supply Management shall exercise oversight responsibility over all County warehouses and storerooms and shall prescribe the procedures to be observed by using agencies in receipt, storage, issue and stock control of supplies.

#### Section 3. Excess and Surplus Property.

- a. The Director of the Department of Purchasing and Supply Management is responsible for:
  1. Redistribution of serviceable excess equipment.
  2. Management of recyclable material contracts. These contracts involve disposal of scrap metal, paper, waste oil, scrap tires, waste silver, obsolete computers, etc.
  3. Disposal of surplus County and Schools property through sealed bid, auction, including online public auctions, or fixed-price sale. Some equipment may also be disposed of by junking, sale as scrap metal or cannibalization. Sale of surplus

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§2.2-1124

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

personal property shall be based wherever feasible on competitive bids. If the amount of the sale is estimated to exceed \$5,000, sealed bids shall, unless the Board of Supervisors shall provide otherwise, be solicited by public notice inserted at least once in a newspaper of county-wide circulation and at least five calendar days before the final date of submitting bids.

4. Disposal of confiscated or abandoned property in the hands of the police in accordance with Chapter 2, Article 2, Sections 2-2-1 through 2-2-3 of the County Code.
- b. Donations of County/FCPS surplus property and abandoned property, except as described in Section 3, a.4 above, may be made under the following conditions:
1. When the fair market value of an item exceeds \$5,000 the Board of County Supervisors or FCPS School Board, as appropriate and allowed by law, may donate surplus County or School property to charitable or non-profit organizations or public bodies where appropriate. The Director of the Department of Purchasing and Supply Management or Assistant Superintendent of Financial Services will evaluate the request for donation and determine that the requested item is surplus (i.e., it is not needed by any County or FCPS agency), and the fair market value. Other factors to be considered in the evaluation are availability of the requested item, serviceability, compatibility to the intended use, and potential benefit to the County. Public relations and good will are valid benefits. The Director of the Department of Purchasing and Supply Management or Assistant Superintendent of Financial Services will provide his evaluation and recommendation to the County Executive or Division Superintendent for forwarding to the Board of Supervisors or School Board for approval.
  2. When the fair market value of an item is less than \$5,000 and not needed by any County or FCPS agency, the Director of the Department of Purchasing and Supply Management or Assistant Superintendent of Financial Services may donate surplus property directly to a charitable or nonprofit organizations or public bodies as appropriate and allowed by law.
- c. County employees and members of their immediate family are not eligible to buy surplus County property from the County, except where the property is offered to the general public on a fixed-price basis or sold through a third party.

## **FAIRFAX COUNTY PURCHASING RESOLUTION**

### **Section 4. Property Accountability.**

- a. The Director of the Department of Purchasing and Supply Management is responsible for:**
  - 1. Maintaining the County and Fairfax County Public Schools fixed assets accountability program.**
  - 2. Conducting physical inventories, spot checks, and updating all fixed asset accounts in accordance with County procedures.**
  - 3. Completing reconciliations of the physical inventories and spot checks.**
  - 4. Providing training, management reporting and on-site customer assistance visits to County Agencies and Fairfax County Public Schools.**
- b. County agencies and Fairfax County Public Schools are to conduct periodical physical inventories of their fixed assets in accordance with the three-year cycle as well as assist the Department of Purchasing and Supply Management staff in performing annual spot checks.**
- c. Property offered as a donation to a County Agency which exceeds a fair market value of \$5,000 may be accepted only after approval by the Director of the Department of Purchasing and Supply Management. Requests for approval must be in writing and contain an estimate of the fair market value of the property, condition of the property, and describe any future maintenance requirements. Once accepted, donated property must be labeled and reported to the Department of Purchasing and Supply Management, Property Accounts Section. The donated property will then be included in the property accountability program.**

**A Copy Teste:**

**Nancy Vehrs  
Clerk to the Board of Supervisors**

**ACTION - 3**

Approval - Open End Contracts for Professional Services at Laurel Hill Park (Mount Vernon District)

ISSUE:

Approval of new open end contracts for architectural, engineering and other professional services to support planning and development activities at Laurel Hill Park.

RECOMMENDATION:

The Park Authority Director recommends approval of one-year contracts, with two (2) one-year extensions at the option of the Park Authority, with professional service contract teams headed by EDAW, Inc. and Lardner/Klein Landscape Architects, P.C. Contract limits will be set at annual not-to-exceed amounts of \$600,000 for EDAW and \$400,000 for Lardner/Klein. These firms will provide a variety of professional services to support both Park Authority and Department of Planning and Zoning activities at Laurel Hill Park.

TIMING:

Board action is requested on July 26, 2006, to ensure that the professional services are readily available to support planned activities at Laurel Hill.

BACKGROUND:

A public notice was issued on March 10, 2006, requesting qualified consultants to provide a wide variety of professional services to support planning and development activities at Laurel Hill. The notice was posted in the Washington Post and the Department of Purchasing and Supply Management web site. Copies were also sent to every architect and engineering firm on the Park Authority mailing list. Eight responses were received and these were reviewed by an Evaluation Team, including staff from Planning and Development and the Laurel Hill Manager for the Department of Planning and Zoning. The top three responses were selected for further evaluation and site meetings were held with each finalist. Based on the site visit briefings and discussion, and review of the business plans, the Evaluation Team was unanimous in the selection of the teams headed by EDAW, Inc. and Lardner/Klein Landscape Architects, P.C.

Board Agenda Item  
July 26, 2006

FISCAL IMPACT:

Contract expenditures will be charged to individual projects as work is assigned, up to the maximum amounts of the contracts. This Board action only commits funds through the issuance of a Contract Project Assignment.

ENCLOSED DOCUMENT:

Attachment 1: Professional Consulting Team to Provide Architectural, Engineering and Planning Services at Laurel Hill

STAFF:

Michael A. Kane, Director

Timothy K. White, Chief Operating Officer

Lynn S. Tadlock, Director, Planning and Development Division

Kirk Holley, Manager, Special Projects Branch

Bob Betsold, Section Manager, Special Projects Branch

Michael Baird, Management Analyst, Park Planning Branch

Susan Tibbetts, Administrative Assistant, Park Planning Branch

**Professional Consulting Teams to provide Architectural, Engineering and Planning Services at Laurel Hill**

<b><u>Member</u></b>	<b><u>Services</u></b>
EDAW, Inc.	Planning, zoning, environmental assessment, ecological and archeological investigations
VHB, Inc.	Engineering, transportation, storm water handling, recreation facilities
EI Group	Asbestos abatement
Belstar, Inc.	Construction management, cost estimation
GeoConcepts Engineering	Soils, geology, foundations
John Milner Associates, Inc.	Archeological and historic preservation
Quinn Evans Architects	Recreation facilities
Illumination Arts, LLC	Lighting
<b><u>Member</u></b>	<b><u>Services</u></b>
Lardner/Klein Landscape Architects, P.C.	Landscape architecture, planning, recreation facilities, resource management
Wiley & Wilson, Inc.	Codes, construction management, cost estimating, ecology, archeology, engineering
Frazier Associates	Architecture, landscape architecture, graphic design, historic preservation, land use

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**ACTION - 4**

Approval – License Agreement Between Fairfax County Park Authority and Washington D.C. SMSA Limited Partnership in Pimmit Run Stream Valley Park (Dranesville District)

ISSUE:

Approval of a license agreement between Fairfax County Park Authority and Washington D.C. SMSA Limited Partnership ("Verizon Wireless") to install telecommunication equipment and related structures in Pimmit Run Stream Valley Park.

RECOMMENDATION:

The Park Authority Director recommends that the Park Authority Board approve the license agreement between Fairfax County Park Authority and Washington D.C. SMSA Limited Partnership to install telecommunication equipment and related structures in Pimmit Run Stream Valley Park.

TIMING:

Board action is requested on July 26, 2006, in order to maintain the project schedule.

BACKGROUND:

Fairfax County Park Authority received a request from Washington D.C. SMSA Limited Partnership ("Verizon Wireless") to install a telecommunication monopole structure and related equipment in Pimmit Run Stream Valley Park, within the Area 1 Maintenance Facility (Attachment 1). Verizon Wireless proposes to install a "stealth" monopole/tree pole of 108 feet in height. All of the antennas will be obscured by artificial vegetation (Attachment 2), and additional vegetative screening will be provided along Taylor Road to provide a vegetated buffer between the monopole and the predominantly residential community. The monopole will be located in a 1,800 sq. ft. fenced compound containing the associated telecommunication equipment; this compound will be located at the back but within the Area 1 Maintenance Facility. Park Operations staff are aware that access to the site will be from the existing Area 1 Maintenance Facility entrance, and have indicated that the proposed location of the telecommunication equipment will not conflict with their operations.

Board Agenda Item  
July 26, 2006

This issue was first brought before the Planning and Development Committee on April 12, 2006; the Dranesville District representative requested that Verizon go back to the Metropolitan Washington Airports Authority (MWAA) to pursue a telecommunications site on the nearby property along the Dulles Access Road, though Verizon's initial proposal to MWAA had been rejected. MWAA has rejected Verizon's proposal again, as they have determined that this wireless communications facility does not serve an airport purpose; a copy of this letter is attached (Attachment 3). Several private properties were also evaluated and rejected by Verizon Wireless for the location of the monopole. Staff has evaluated the proposed site under the guidance of Park Authority Policy 303, Telecommunication Sites, and found no significant negative impacts will result with this use of parkland. The Pimmit Run Stream Valley site is the only public site that meets Verizon's requirements.

The initial term of the license is ten (10) years with three (3) five-year renewal terms. Provisions for equipment removal are included in the license along with requirements for staff review and approval of site plans. The agreement can be cancelled if the required government approvals are not granted within eighteen (18) months of the signing of this agreement. The County Risk Management Division and the County Attorney have already reviewed and approved this agreement.

FISCAL IMPACT:

The annual license fee for the first year of the initial ten-year term will be \$25,200. At the end of each year the annual license fee for the following year will increase by 3%. Additionally, a one-time use fee of \$5,000 will be paid to the Park Authority upon obtaining all necessary governmental approvals. Funds received from this license will be appropriated into Fund 371, Park Capital Improvement Fund for improvements to Pimmit Run Stream Valley Park and the Area 1 Maintenance Facility. If the license agreement is renewed after the initial ten-year term, funds from the license fee will be appropriated by action of the Park Authority Board, in accordance with Policy 303.

ENCLOSED DOCUMENTS:

Attachment 1: Location Map – Proposed Telecom Facility / Area 1 Maintenance Facility  
Attachment 2: Telecommunication Drawings – Elevation/Site Plan / Exhibit A, B and C  
Attachment 3: Letter from MWAA to Verizon Wireless dated July 3, 2006  
Attachment 4: Table of Contents and Fairfax County Park Authority License Agreement  
Attachment 5: Policy 303 – Telecommunication Sites

Board Agenda Item  
July 26, 2006

STAFF:

Michael A. Kane, Director

Timothy K. White, Chief Operating Officer

Lynn S. Tadlock, Director, Planning and Development Division

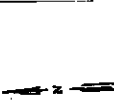
Todd Johnson, Director, Park Operations Division

Kay H. Rutledge, Manager, Land Acquisition and Management Branch

Cindy McNeal, Section Supervisor, Land Acquisition and Management Branch

James L. Miller, Property Manager, Land Acquisition and Management Branch

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1 INCH = 100 FEET

GENERAL NOTES  
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PROPERTY MAP

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Attachment

Revised as of 10/1/01

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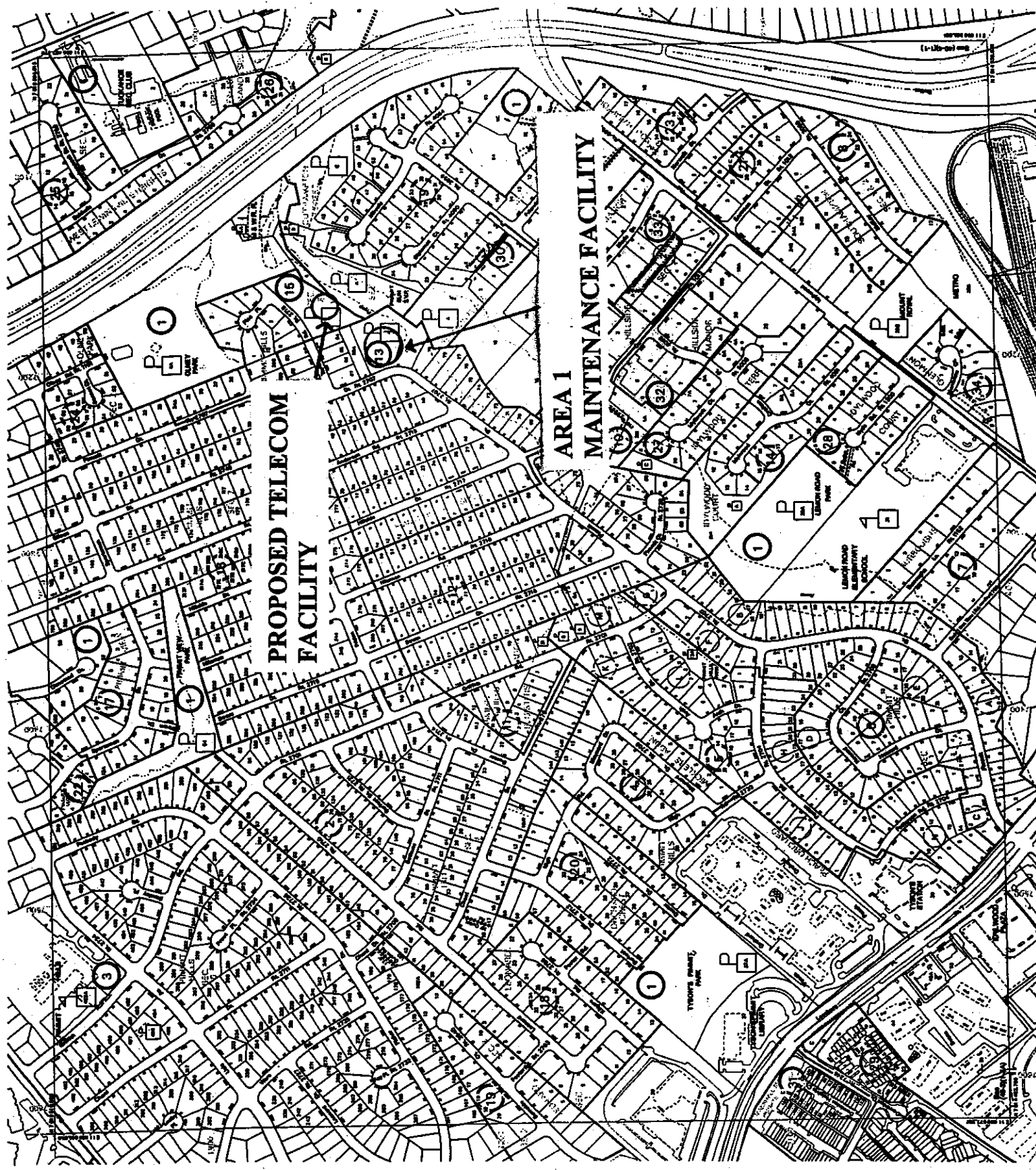
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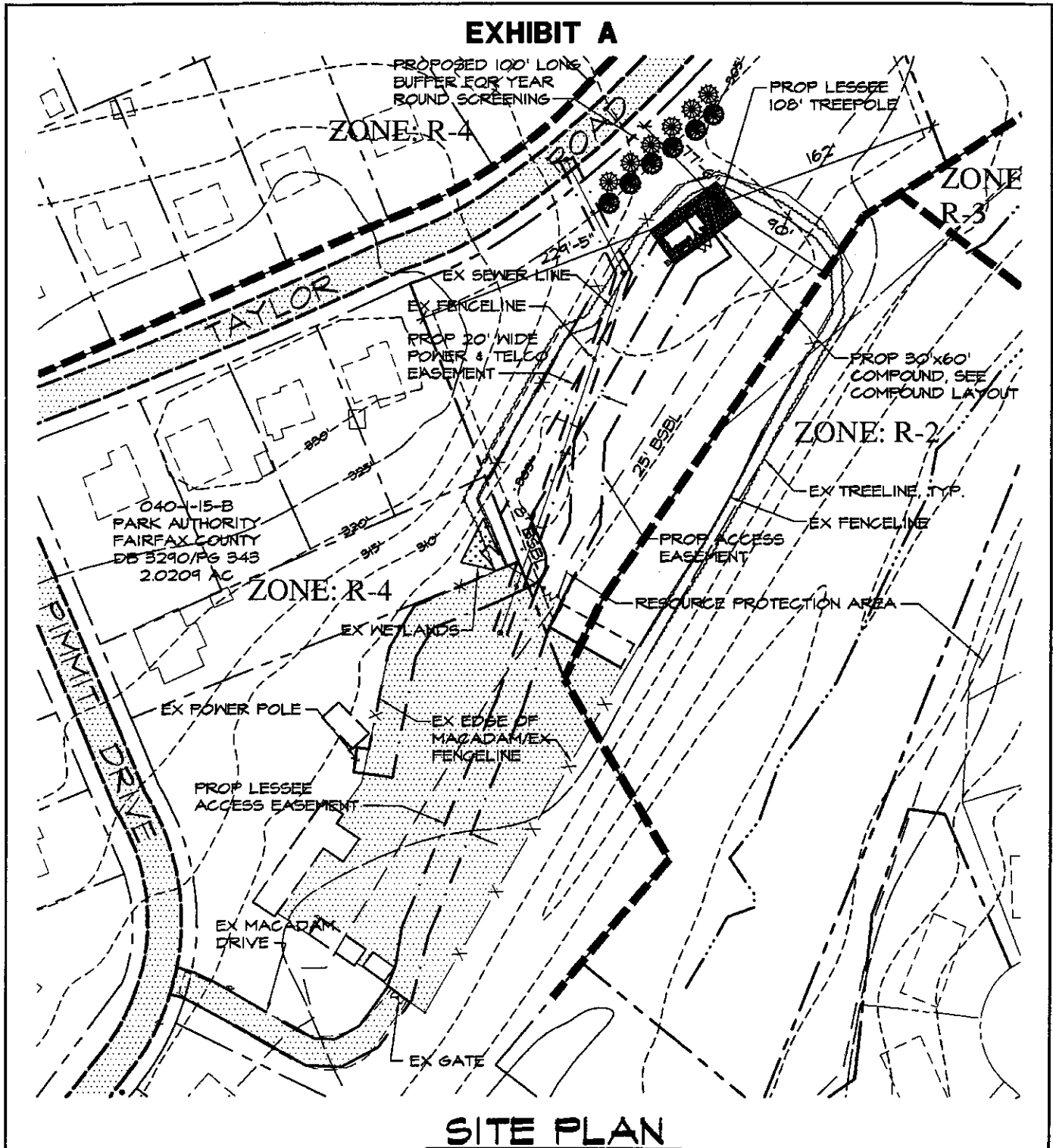
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**EXHIBIT A**

NTS



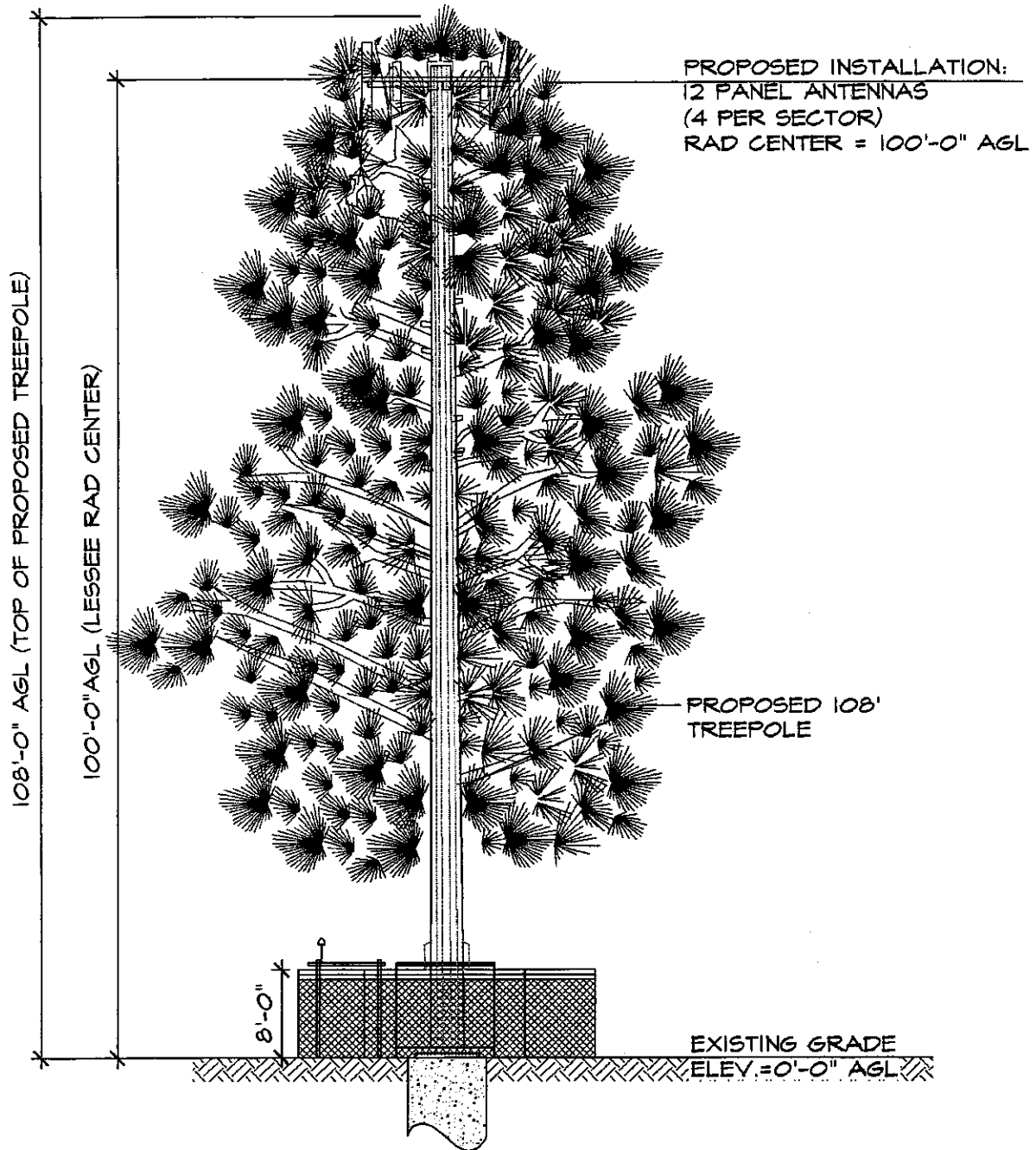
**MORRIS & RITCHIE ASSOCIATES, INC.**  
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS

1220-C East Joppa Road, Suite 505  
Towson, Maryland 21286  
(410) 821-1690  
Fax (410) 821-1748

**South Hampton**  
Fairfax County, VA

**EXHIBIT A**  
**SITE PLAN**

SCALE: AS NOTED	DATE: 2/03/06	DRAWN BY: DJC	DESIGN BY: DJC	REVIEW BY: BES	JOB NO.: 10427.227
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**EXHIBIT B****TOWER ELEVATION**

N.T.S.



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ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS

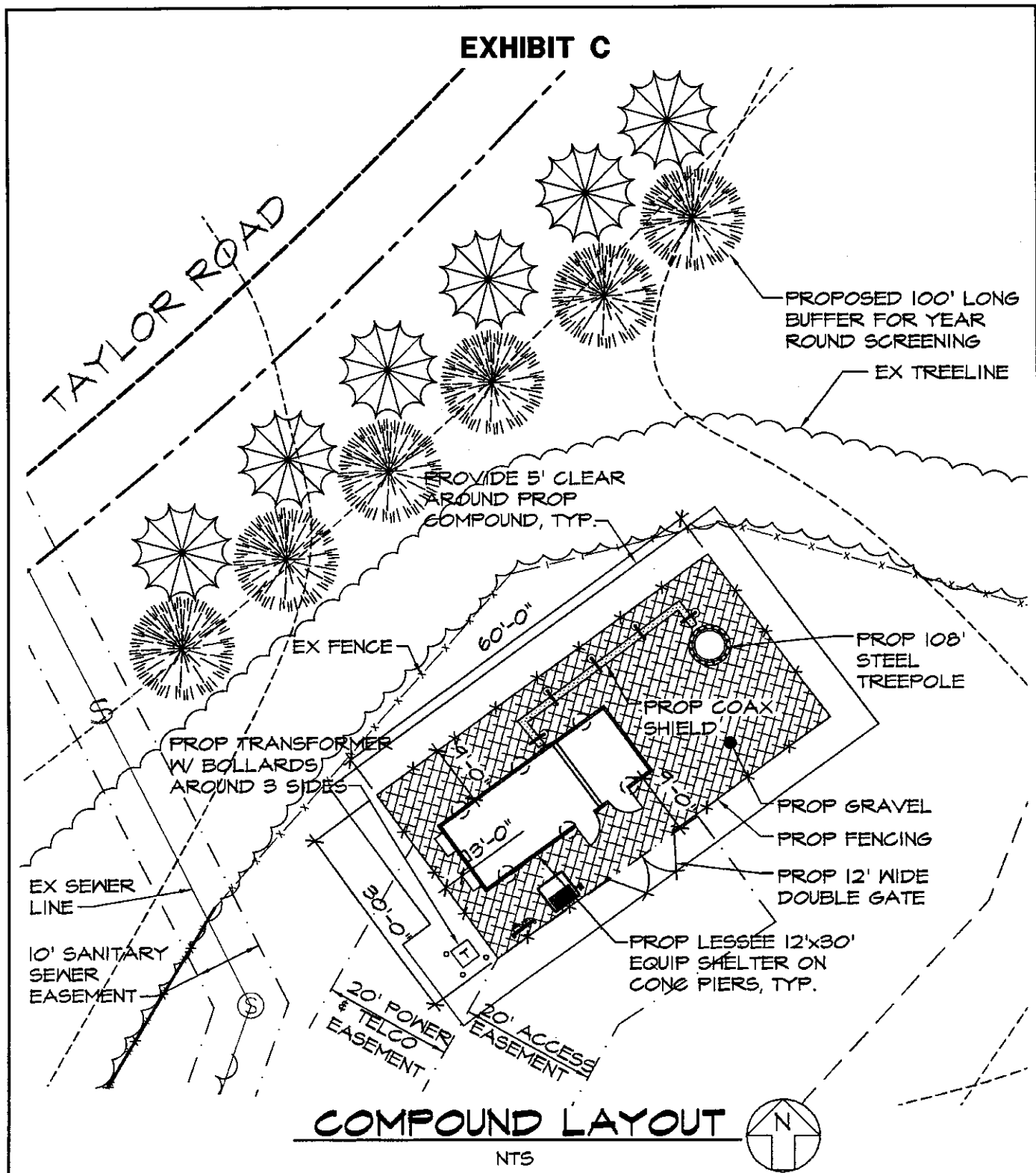
1220-C East Joppa Road, Suite 505  
Towson, Maryland 21286  
(410) 821-1690  
Fax (410) 821-1748

**South Hampton**

Fairfax County, VA

**EXHIBIT B  
ELEVATION**

SCALE: AS NOTED	DATE: 2/03/06	DRAWN BY: DJC	DESIGN BY: DJC	REVIEW BY: BES	JOB NO.: 10427.227
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**MORRIS & RITCHIE ASSOCIATES, INC.**  
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS

1220-C East Joppa Road, Suite 505  
Towson, Maryland 21286  
(410) 821-1690  
Fax (410) 821-1748

**South Hampton**

Fairfax County, VA

**EXHIBIT 'C'  
COMPOUND LAYOUT**

SCALE:  
AS NOTED

DATE:  
2/03/06

DRAWN BY:  
DJC

DESIGN BY:  
DJC

REVIEW BY:  
BES

JOB NO.:  
10427.227

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TOTAL P.02

## METROPOLITAN WASHINGTON AIRPORTS AUTHORITY



July 3, 2006

Brian A. Stover  
 Manager – Real Estate Zoning  
 Verizon Wireless  
 9000 Junction Drive  
 Annapolis, Maryland 20701

RE: Request for a ground lease adjacent to the Dulles Airport Access Road

Dear Mr. Stover:

Thank you for your letter of May 18, 2006, to Mr. Terry Dorrington expressing Verizon Wireless' interest in locating a wireless communications facility adjacent to the Dulles Access Road near its intersection with Idlywood Road. I understand you and Terry have had numerous discussions about this location and that he has explained that requests for leasing facilities on the Dulles Access Road must serve an airport purpose before the lease can be approved.

We have reviewed the information you provided with your letter of May 18, 2006, and based on this information we do not believe locating this wireless communications facility on the Dulles Access Road property would serve an airport purpose. With this site being approximately 18 miles from Washington Dulles International Airport, we agree that it would be almost impossible to estimate how many actual Dulles Airport users would access this wireless site.

If you have any additional questions on this issue, please feel free to contact Mr. Dorrington at (703) 417-8755.

Sincerely,

Steven C. Baker  
 Vice President – Business Administration

SCB:jyb

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FAIRFAX COUNTY PARK AUTHORITY  
LICENSE AGREEMENT

THIS AGREEMENT ("Agreement"), dated as of \_\_\_\_\_, 2006 between Fairfax County Park Authority an instrumentality exercising public and essential governmental functions ("Licensor") and Washington, D.C. SMSA Limited Partnership d/b/a Verizon Wireless ("Verizon Wireless"), having an office at 180 Washington Valley Road, Bedminster, New Jersey 07921 ("Licensee"), recites and provides:

**RECITALS**

Licensor is the owner of a parcel of land located at 1927 Pimmit Drive, Falls Church, Virginia. 22043. Fairfax County, Virginia and referred to among the Tax Map records of Fairfax County as Tax Map No. 040-1-15-B. "Licensor is willing to permit Licensee to use such portion of the Premises as described in Exhibit A (hereinafter referred to as "the Premises") for the purposes and in accord with the terms and conditions set forth in this Agreement."

Licensor is willing to permit Licensee to use such portion of the Premises for the purposes and in accord with the terms and conditions set forth in this Agreement.

**AGREEMENT**

In consideration of the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Definitions.**

"Facilities", as used herein, shall be antennas, equipment, ancillary and related structures, cables, accessories and improvements as more specifically described on Exhibits B and C attached hereto, and shall include any approved additions or alternations thereto, subject to Licensor approval as specified in Paragraph 6 below.

**2. Use of Premises.**

(a) Licensor grants to Licensee a non-exclusive license (the "License") to construct, install and operate the Facilities upon the Premises in the general configuration shown on Exhibit C hereto, subject to Licensor's final approval of the plans as specified in Paragraph 6 below. Subject to compliance with all laws, Licensee may at its own cost and expense, use the portion of the Premises shown on Exhibit C to construct, install, operate, maintain, repair, replace, protect and secure the "Facilities".

(b) Licensor grants to Licensee, subject to all conditions herein, including, but not limited to Paragraph 6 the right to install and operate underground electric lines from Licensee's meter to the

Facilities and telephone lines from the termination point of the telephone utility supplying telephone service to the Facilities as shown on Exhibit C.

(c) Licensors agree to grant, subject to all conditions herein, including, but not limited to Paragraph 6 such easements to public service corporations across the Premises to the Facilities as shown on Exhibit C.

(d) All portions of the Facilities brought onto the Premises by Licensee shall remain the Licensee's personal property and, so long as Licensee is not in default, at Licensee's option, may be removed by Licensee at any time during the term, but no later than ten (10) days after the License has terminated. Upon the termination of the License the Facilities shall be removed from the Premises by the Licensee, including the removal of the monopole and equipment shelter foundations. Licensee shall restore the Premises to the condition prior to the execution of the agreement, reasonable wear and tear expected. Licensee shall contact all public service corporations and telephone utility company(s) who were granted easements as required by Licensee to have all equipment removed from the premises, at the Licensee's expense and restored to its prior condition. All such easements shall be vacated at the Licensee's expense.

(e) Subject to the limitations set forth herein, Licensors grants Licensee a non-exclusive license for ingress and egress over (i) the portion of the Premises shown on Exhibit C and (ii) to the extent of the Licensors' interest therein, any existing access roads, easements or rights of way serving the Premises for access to the Facilities for the purposes of installing, maintaining, operating, repairing, reconstructing and removing the Facilities. Subject to the foregoing, Licensee shall have twenty-four (24) hour a day, seven (7) day a week access to the site and the Facilities for maintenance, unscheduled repairs and other emergencies.

(f) Licensors reserves the right to continue all existing uses of the Premises and to make or permit any additional use of the Premises as Licensors deems appropriate.

(g) Licensee shall not: (i) violate any environmental laws (now or hereafter enacted), in connection with Licensee's use or occupancy of the Leased Premises; or (ii) use, generate, release, manufacture, refine, produce, process, store, or dispose of any Hazardous Wastes on, under, or about the Leased Premises, or transport to or from the Leased Premises any Hazardous Wastes; except for the use of sealed batteries or a diesel generator for emergency back-up, any fire suppression system and small quantities of cleaning products ordinarily use by commercial businesses, subject to compliance with all applicable laws and regulations. "Hazardous Wastes" shall mean petroleum or any petroleum product, asbestos, any substance known to cause cancer and/or reproductive toxicity, and/or any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation.

(h) Construction and installation of the Facilities shall be accomplished without interfering with the use or development of the Premises, existing as of the date of this Agreement, by Licensors or any other party and/or the necessary day to day operations of the Licensors. Promptly upon completion of the foregoing construction, installation or maintenance, Licensee shall, at its own cost and expense, repair any damage to the Premises resulting from such construction, installation or maintenance.

### 3. Term

(a) The initial term of the License hereby granted ("Term") shall be ten (10) years, commencing on the earlier of the date the first (1<sup>st</sup>) day of the month following the month in which a building permit is issued by the governmental agency charged with issuing such permits, or the first (1<sup>st</sup>) day of the month in which falls the 180<sup>th</sup> day after the execution date of this Agreement ( the "Commencement Date" ) and ending at 11:59 p.m. ten (10) years thereafter. Upon thirty (30) days' notice given by Licensee to Licensors, Licensee may terminate this Agreement if Licensee determines the Premises has become unsuitable for Licensee's Radio Link because (i) Licensee is unable to obtain or maintain in force all necessary Governmental Approvals (as hereinafter defined), (ii) a material change in government regulations makes it impractical or uneconomic for Licensee to continue to operate the Facilities, (iii) interference by or to Licensee's operation cannot be resolved; (iv) Licensee changes its system or network design in a manner that makes it impractical or uneconomic for Licensee to operate the Facilities or (v) the Premises are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient in Licensee's reasonable judgment, adversely to affect Licensee's use of the Facilities.

(b) Provided Licensee does not breach any of the terms, conditions, covenants, representations or warranties set forth herein ("Default") at any time during the Term, Licensee may renew this Agreement for three (3) additional periods of five (5) years each (a "Renewal Term") upon the same terms and conditions contained herein; provided, however, that the annual license fee provided for in Section 4 shall be adjusted at the commencement of each Renewal Term as provided in Section 4. The License hereby granted shall automatically renew for each renewal period unless, at least 60 days prior to termination of the then existing period, Licensee provides written notification to Licensors of its intention not to permit the License to renew. If Licensee provides Licensors with such notice, the option(s) remaining shall be rendered null and void and the License shall terminate at the end of the then current period. Each Renewal Term shall commence upon the expiration of the immediately preceding Term or applicable Renewal Term. All references in this Agreement to the Term hereof shall include, where appropriate, all Renewal Terms so affected.

(c) Promptly upon the signing of this Agreement, Licensee will apply to Fairfax County for all necessary zoning approvals to construct and operate the Facilities, and Licensee will apply for any and all other governmental licenses, permits, approvals or other relief required or deemed necessary or appropriate by Licensee for its use of the Premises ("Governmental Approvals"). Licensee will diligently prosecute all such applications to a conclusion. Licensee shall have the right, but not the obligation, to appeal any denial. Licensors specifically authorizes Licensee to prepare, execute and file all necessary or appropriate applications to obtain Governmental Approvals for its use under this Agreement subject to Licensors' right to review such applications. In the event that all necessary Governmental Approvals have not been obtained within eighteen months from the date of the signing of this Agreement or that Licensee is denied a necessary Governmental Approval and elects not to appeal, either party may, by written notice to the other terminate this Agreement. However, Licensors and Licensee may mutually agree to extend the time for obtaining the Governmental Approvals by six months. Licensee shall pay all costs in connection with applying for and obtaining all zoning and other Governmental Approvals.

#### **4. License Fee**

(a) During the first year of the Term, Licensee shall pay to Licensor an annual license fee of Twenty Five Thousand Two Hundred and 00/100ths Dollars (\$25,200), due and payable in one full payment within thirty (30) day after the Commencement Date, without notice, demand, deduction or setoff. The payments hereunder shall be due on or before the Commencement Date. If the Commencement Date or the termination date of this Agreement is other than the first day of a month, the license fee shall be prorated for such month. If Licensee fails to pay any installment of license fees within ten (10) days after written notice of default, Licensee shall also pay to Licensor a late fee equal to ten percent (10%) of the late payment. If any amount remains unpaid more than thirty (30) days after its due date, Licensee shall pay Licensor interest on such unpaid amount at an annual rate of eighteen percent (18%) from the date such amount was due until the date such amount is paid to Licensor.

Licensee shall pay Licensor a one-time use fee of Five Thousand and 00/100ths Dollars (\$5,000) upon obtaining all necessary Governmental Approvals and upon the signature of the appropriate representative of the Licensor indicating Licensor's approval of all of Licensee's plans and specifications relating to the Facilities.

(b) At the end of each year of the Term or Renewal Term the annual fee for the next year period then beginning shall be equal to the product obtained by multiplying the annual license fee for the year ending by 1.03. The annual fee shall be due and payable in one full payment on or before the anniversary of the Commencement Date.

#### **5. Engineering Review**

Prior to the Commencement Date, Licensee shall have access to the Premises, during business hours after a minimum of three (3) days prior written notice to Licensor, for undertaking any necessary tests, studies and inspections relating to Licensee's proposed use of the Premises. Licensee shall fully restore to its prior condition any portion of the Premises disturbed by Licensee and Licensee hereby indemnifies and holds Licensor harmless from and against any claim, loss, expenses, fine, fee or liability (including but not limited to collection costs and reasonable attorney's fees) incurred by Licensor as a result of Licensee's access, tests, studies or other activities pursuant to this paragraph.

#### **6. Construction and Alteration of the Premises**

(a) Before commencement of any construction or any subsequent alteration thereof, Licensee shall submit to Licensor for Licensor's prior written approval all plans, specifications, drawings, rendering, permits, applications and descriptions which relate to the proposed Facilities or the alteration of the Premises in any way. In addition, Licensee shall provide to Licensor (i) a certification by a professional engineer satisfactory to Licensor which states that the proposed Facilities or alterations will be in compliance with all applicable laws, rules and regulations, and copies of all approved permits and governmental approvals. After Licensee's submission of such plans and specifications Licensor shall notify Licensee within (30) days whether it deems the plans and specifications to be satisfactory then approval of the plans and specifications shall be deemed

granted by Licensor. Licensee shall pay the reasonable costs and expenses of Licensor's engineering review of licensee's plans and specifications. Should the Licensor determine that the plans and specifications for the proposed Facilities are unsatisfactory, Licensee shall revise the plans and specifications to remedy the defects noted by Licensor and re-submit the revised plans and specifications for Licensor's review pursuant to this paragraph. Notwithstanding the prior terms of this paragraph, Licensee shall be permitted to make operational maintenance and emergency repairs so long as said maintenance and repairs does not change the size or number of antennas, or overall appearance of the structure. Licensee shall not sublease or execute assignments of this License Agreement without the prior written consent of the Licensor in accordance with Paragraph 18.

(b) If construction of the Facilities should require the relocation of any facilities or equipment presently located at the Premises owned by the Licensor, such facilities or equipment may be relocated by Licensee only with Licensor's prior written consent and a Licensee's sole cost and expense.

## **7. Interference**

After the Commencement Date of this License, Licensor agrees not to permit any future use of the Premises that will interfere with Licensee's operations pursuant to this Agreement. Licensee agrees not to permit any use of the Facilities that will interfere with Licensor's operations or use of the Premises or to use of the Premises by any parties to whom Licensor has granted rights prior to the Commencement Date. If measurable interference is caused by Licensor due to any subsequent change or addition of equipment or improvements on the Premises by Licensor, Licensor agrees to eliminate same in a prompt and timely manner. If interference is caused by Licensee or any use of Licensee's facilities, Licensee shall eliminate the same in a prompt and timely manner. If interference, that is improperly caused by either the Licensee or the Licensor cannot be eliminated within a reasonable length of time, but not to exceed thirty (30) days after written notice thereof, Licensor or Licensee, as the case may be, shall cause the interference to cease except for brief tests necessary for the elimination of the interference.

## **8. Condition of the Premises**

On the Commencement Date, Licensee will accept the Premises in an "as is" condition at that time.

## **9. Maintenance and Repairs of Facilities**

Licensee shall be responsible for all maintenance and repair of the Facilities and any appurtenant equipment or facilities of Licensee during the term of this Agreement.

## **10. Indemnification.**

(a) Licensee indemnifies and holds Licensor and its agents, employees, officers and directors harmless from and against all claims, demands, costs, losses, liabilities, fines and penalties, including but not limited to reasonable attorneys' fees and costs of defense, arising from:

- (i) the condition of the Facilities;
- (ii) any activities undertaken on, in, under or near the Premises by, for or at the direction of the Licensee or the Licensee's Agents;
- (iii) any Default or Event of Default (as defined below) by Licensee under this Agreement; or
- (iv) the presence, storage, use, placement, treatment, generation, transport, release or disposal on, in, under or near the Premises by Licensee or any of Licensee's Agents of (1) oil, petroleum or other hydrocarbon derivatives, additives or products, (2) hazardous wastes, (3) hazardous or toxic substances or chemicals, (4) fungicides, rodenticide or insecticides, (5) asbestos or (6) urea formaldehyde, in each case as defined by any applicable state, federal or local law, rule or regulation (collectively, "Hazardous Material").

(b) The Licensee hereby agrees to indemnify and hold harmless Licensor, its officers, agents, and all employees and volunteers from any and all claims for bodily injury, personal injury, and/or property damage, including cost of investigation, all expenses of litigation, including reasonable attorneys fees, and the cost of appeals arising out of any claims or suits which result from the errors, omissions, or negligent acts of the Licensee, its subcontractors and their agents and employees.

## **11. Insurance**

(a) Licensee shall maintain commercial liability insurance coverage of at least Two Million Dollars (\$2,000,000) combined single limit for both bodily injury and property damage, shall name Licensor as an additional insured, and Licensee will provide at least thirty (30) days prior written notice of cancellation to Licensor, and shall otherwise be reasonably satisfactory to Licensor. Such insurance may be included within the coverage of a blanket or umbrella policy, and must be issued by an insurance company rated at least "A-" by AM Best. Licensee shall provide Licensor an original certificate evidencing such insurance or self-insurance upon the Commencement Date of the term of this Agreement, and at any other time during the term of this Agreement upon the request of the Licensor.

(b) Licensee shall carry hazard insurance to cover damage to or destruction of the Facilities. In the event of damage to or destruction of the Facilities, neither Licensee nor Licensor shall have any obligation to restore, replace or rebuild the Facilities for any reason. If the Premises or Facilities are destroyed or damaged and rendered unsuitable for normal use, Licensee may terminate this Agreement upon providing thirty (30) days written notice to Licensor. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction, without further liability hereunder. This provision shall not limit Licensee's obligation to restore the site to its original condition.

## **12. Liens.**

Licensee shall promptly pay for all work, labor, services or material supplied by or on behalf of Licensee at the Premises or in connection with the Facilities. If any mechanics' or materialmen's liens shall be filed affecting the Premises, Licensee shall cause the same to be released of record by payment, bond, court order or otherwise, within thirty (30) days after notice of filing thereof. Upon the completion of the construction of the Facilities or upon the completion of any approved alternations thereto, Licensee shall obtain and provide to Licensor lien waivers from all contractors and subcontractors which provided services or materials in connection with the construction or alteration of the Facilities.

## **13. Compliance with Laws.**

Licensee shall, at his expense, throughout the term of this Agreement, obtain all building permits and other governmental or quasi-governmental licenses, permits, consents and approvals required for the construction, installation, operation and use of the Facilities in compliance with all applicable laws, rules, orders, ordinances and requirements, including but not limited to, all laws, rules, orders, ordinances and requirements which relate to the FAA, FCC, health, safety, environment or land use. In the event of Licensee's failure to comply with this Section, Licensor may, but is not obligated to, take such actions as may be necessary to comply with any such laws, rules, regulations, orders, ordinances or requirements, and Licensee shall immediately reimburse Licensor for all costs and expenses incurred thereby.

## **14. Representations and Warranties.**

(a) Licensee represents and warrants to Licensor that (i) it is a limited partnership duly organized and validly existing under the laws of the Commonwealth of Virginia, (ii) it has all partnership power and authority necessary to own its properties and conduct its business, as presently conducted, and to enter into and perform its obligations under this Agreement, (iii) the person executing this Agreement on its behalf has been duly authorized to do so by resolution or other action duly adopted (each party agrees to provide to the other a certified copy of its resolutions or other action confirming the same within fifteen (15) days after the date thereof), and (iv) that it has not dealt with, nor is any brokerage commission due to any broker in connection with this Agreement.

(b) Licensor represents and warrants to Licensee (i) that it is an instrumentality exercising public and essential governmental functions, (ii) that it has authority to enter into this Agreement, (iii) that the party executing this Agreement has been duly authorized to do so, (iv) that it solely owns the Premises in fee simple, and (v) that it has not dealt with, nor is any brokerage commission due to any broker in connection with this Agreement.

(c) To the best of Licensor's knowledge the making of this Agreement, and Licensor's performance of this Agreement, will not violate the provision of any agreement or encumbrance of any kind under which Licensor is a party or is bound or which restricts in any way the disposition or use of the Premises.

(d) As long as Licensee pays the annual license fees and any other money due under the License and observes and performs the terms, covenants, and conditions under the License, the Licensee will peacefully, quietly occupy, and enjoy the full possession of the Premises without molestation or hindrance by the Licensor or any other party claiming by, through, or under the Licensor.

#### **15. Termination.**

Upon the expiration or earlier termination of the License, Licensee shall at the option of Licensor, remove the Facilities from the Premises as provided in Section 2(d) of this Agreement, and shall repair any damage to the Premises and associated public utility Areas caused by the installation operation or removal of the Facilities. If Licensee remains on the premises more than ten (10) days after the termination of this Agreement, Licensee shall pay to Licensor for such holding over a license fee per month equal to 1.5 times the monthly installment of the license fee which accrued during the immediately preceding full month. The license fee for such holding over shall remain in effect until Licensee removes the "Facilities". If the "Facilities" are not removed within 120 days after expiration or earlier termination of the License, Licensor shall at its option complete the removal and restoration of the "Facilities" at Licensee's expense. Acceptance of the license fees upon Termination shall not be a waiver by Licensor of any of its other remedies at law or in equity. Section 5, 10, 12 and 15 of this Agreement shall survive termination of the License.

#### **16. Default.**

If Licensee shall fail to pay when due any of the installments of the license fee provided for herein or any other sum accruing pursuant to the terms of this Agreement, and such failure shall continue for ten (10) days after written notice from Licensor, or if Licensee shall be in default or fail to perform in a timely manner any other obligation herein provided, other than the payment of license fee installments, and such failure shall continue for thirty (30) days after written notice from Licensor, or if a petition in bankruptcy shall be filed by or against Licensee, or if Licensee shall be adjudicated insolvent, or if Licensee shall make a general assignment for the benefit of its creditors, or if a receiver or trustee shall be appointed to take charge of and wind up Licensee's business, or if the Licensee abandons or vacates the Facilities for more than four (4) consecutive months prior to the termination of this License, then Licensee shall be considered to have caused an event of default ("Event of Default") hereunder and Licensor may elect to terminate this Agreement at its sole discretion and pursue its remedies hereunder, at law or in equity. Notwithstanding the foregoing, if Licensee fails on more than two (2) occasions in any twelve (12) months period to pay any license fee installments when due, Licensee shall not be entitled to the written notice and opportunity to cure otherwise provided above and shall be considered to have caused an Event of Default. Licensee agrees to pay a security deposit to the Licensor equal to one (1) month's installment due on the Commencement Date. This deposit shall be held in an account by the Licensor and returned to Licensee at the termination of the License, provided the Licensee has performed all obligations under this license.

**17. Notices.**

All notices required hereunder or in respect hereof shall be in writing and shall be transmitted by postage prepaid certified mail, return receipt requested, delivered by hand, or transmitted by overnight courier to the following addresses:

Licensors:                      Fairfax County Park Authority  
   12055 Government Center Parkway, Suite 421  
   Fairfax, Virginia 22035  
   Attn: Director, Planning & Development Division

Licensors' Payment  
Address:                      Fairfax County Park Authority  
   12055 Government Center Parkway, Suite 927  
   Fairfax, Virginia 22035  
   Attn: Administration Division – Shashi Dua

Licensee:                      Washington, D.C. SMSA Limited Partnership  
   d/b/a Verizon Wireless  
   180 Washington Valley Road  
   Bedminster, New Jersey 07921  
   Attention: Network Real Estate

Notices shall be deemed given upon delivery or mailing by certified mail with return receipt requested thereof to the address specified above. Either party may change its address or any address for copies by giving ten (10) days prior notice of such change in the manner described above.

**18. Assignment.**

(a) This Agreement may be assigned by Licensee without any prior approval or consent of Licensors to Licensee's principal, affiliates or subsidiaries of its principal. Upon written notice by the Licensee, Licensors agree to acknowledge the assignment to Licensee's principal, affiliate or subsidiary of its principal.

(b) As to any other parties, Licensee may not assign any of its rights hereunder to any person or entity without the prior written consent of Licensors and any purported assignment shall be void. In the event of an assignment, Licensee agrees that it shall remain liable for all obligations hereunder until the expiration or earlier termination of this Agreement. Licensee shall submit any requests for any requested consents of Licensors at least 30 days before any assignment of this Agreement.

(c) This License shall not be interpreted to create anything other than a License and shall not create any right, title or interest in the property, nor shall it create an easement. No other parties are permitted use without permission of Licensors.

### **19. Sub-license.**

Licensee may sub-license space within the existing Licensed Premises and upon Licensee's Facilities to third parties upon obtaining Licensors prior written consent. Such approval must be obtained from the Licensors in writing and in advance of any use by such third party. Licensee shall submit the following documents for Licensors review with any request for consent to sub-license:

- Certified letter from Licensee requesting sub-license approval and Licensee's request to amendment of Agreement
- Proposed amendment to Agreement
- Site plans and Exhibit of proposed sub-license facility
- Approved Department of Planning and Zoning 2232 application
- Radio Frequency propagation map
- Federal Communications Commission License (copy)

Licensors is entitled to receive compensation of additional rent for the approved sub-license in an amount to be determined by Licensors at its sole discretion. Licensors at its sole discretion reserves the right to deny or approve any and all requests for sub-license. Licensee's failure to comply with the sub-license request process as stated in this Section 19 shall be considered an Event of Default and Licensors may terminate this Agreement at its sole discretion and pursue its remedies as provided in Section 16. Notwithstanding any other terms or conditions set forth in this agreement, Licensors reserves the right to terminate this Agreement if Licensee fails to comply with the requirements for permitting third party use of the Licensed Premise or Licensee's Facilities. Licensee shall have full responsibility for all costs incurred by Licensors for staff evaluation and review. Licensee shall have full responsibility and shall pay all costs for plan preparation and procurement of all necessary permits and other approvals from the appropriate governmental agencies. Licensee shall prepare and submit for Licensee's consideration an amendment to the Agreement to allow the proposed sublicense for third party use. No third party use shall be allowed by Licensee prior to execution of an amendment by both parties permitting such use.

### **20. Administrative Fees.**

Licensee shall pay Licensors reasonable administrative fees for preparing, reviewing and negotiating this Agreement, not to exceed Five Hundred and 00/100ths Dollars (\$500.00).

### **21. Miscellaneous.**

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and may not be amended except by a writing signed by the parties hereto. The invalidation of any of the provisions hereof shall not affect any of the other provisions hereof, which shall remain in full force.

### **22. Applicable Law.**

This Agreement shall be executed, constructed and enforced in accordance with the laws of the Commonwealth of Virginia, disregarding those pertaining to conflicts of law.

[SIGNATURES APPEAR ON PAGE 12 IMMEDIATELY FOLLOWING]

WITNESS the following signatures.

WITNESS/ATTEST:

\_\_\_\_\_(SEAL)

LICENSOR

Fairfax County Park Authority  
an instrumentality exercising public  
and essential governmental functions

By: \_\_\_\_\_  
Michael A. Kane, Director

Date: \_\_\_\_\_

WITNESS/ATTEST:

\_\_\_\_\_(SEAL)

LICENSEE

Washington, D.C. SMSA Limited Partnership  
d/b/a Verizon Wireless

By: Cellco Partnership, its general partner

By: \_\_\_\_\_  
David R. Heverling  
Vice President, Network  
Northeast Area

Date: \_\_\_\_\_

## **Policy 303 Telecommunications Sites**

The Park Authority shall seek to balance the general public's need for telecommunications services with the Authority's mandate and public trust for the protection of parklands. Requests for siting of telecommunication facilities on parklands shall be evaluated with due regard for the following policies:

- Fairfax County Comprehensive Policy Plan, Parks and Recreation Policy 3c, which states: "Prohibit the location of major public facilities, including transportation, through public parklands unless: a) the Park Authority determines that the proposed facility is compatible with its use of parkland, or b) a determination has been made that there is no feasible and prudent alternative to the use of parkland and that all possible planning to minimize harm is included in the proposed project. Require a Plan Amendment where the location of such facilities would substantially interfere with the provision of open space and/or recreational facilities or would have a significant adverse impact on ecological and heritage resources."
- Park Authority Park Planning and Development Policy which states: "The Authority shall resist by all appropriate means, including legal action, any attempt by any public agency, group or individual to destroy or encroach upon any park, historical site, nature preserve or recreational facility under the control of the Authority. The Authority considers its responsibilities to the citizens of Fairfax County to be in the nature of public trust, requiring commitment to the preservation and protection of natural, cultural, horticultural and recreational resources located on park lands. The Authority shall enlist the aid of an enlightened and alert citizenry in support of this policy."
- Fairfax County Countywide Comprehensive Policy Plan and Zoning Ordinances for Public Facilities which encourage the co-location of telecommunication facilities on public property

Pursuant to reconciling these policies, the Park Authority Board shall consider the placement of telecommunications monopoles and related equipment on park property only if all other possible locations have been exhausted by the applicant and no feasible and prudent alternative site exists, and all of the following location criteria have been met:

Location Criteria. Requests for placement of telecommunications monopoles and related equipment shall be considered if:

- a. An Office of Communications study has been conducted (or the Office of Communications certifies an applicant's study) showing the Park Authority property as the technically best location;
- b. The Office of Communications assures, in writing, that the proposed facility creates no radiation hazard to the public;
- c. The proposed use of park land does not present a potential legal exposure or liability to the Park Authority;
- d. The proposed location does not adversely affect significant natural or cultural resources, including environmentally sensitive areas such as wetlands, Environmental Quality Corridors and Resource Protection Areas as defined in the Chesapeake Bay Ordinance;
- e. In the sole determination of the Park Authority, the proposed location does not displace and is compatible with existing or planned park facilities;
- f. In the sole opinion of the Park Authority, the proposed location and construction on the site does not detract from the character of the park;

- g. The proposed facility location does not adversely affect park operations or maintenance;
- h. Clear demonstration is given that impacts to adjacent uses and property owners are minimal;
- i. The placement of the telecommunications site enhances public communications services and the public good.

2. Other Criteria.

Adequate compensation shall be provided to the Park Authority for the placement of the proposed facility based on extent of degradation, number of antennae and other factors. Mitigation fees received during the initial license term shall be deposited in the designated subfund of the park revenue operations fund solely for use at the park site where the telecommunications facility is to be located and utilized in accordance with adopted guidelines, unless designated otherwise in the agreement licensing the telecommunications facility. The allocation of fees for subsequent renewal license terms, if any, shall be determined by action of the Park Authority Board.

- b. The applicant accepts full responsibility and costs for all Park Authority staff evaluation and review, plan preparation, and procurement of all necessary permits and other approvals from the appropriate governmental agencies.

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*Revised and adopted October 28, 1998*

## **ACTION - 5**

### Award of Contracts during Park Authority Board Recess

#### ISSUE:

Authorization for the Director or Deputy Director to approve capital construction contracts and submission of grant applications during the Park Authority Board recess.

#### RECOMMENDATION:

The Park Authority Director recommends that the Park Authority Board authorize the Director or Deputy Director to approve capital construction contracts and submission of grant applications during the Park Authority Board recess.

#### TIMING:

Board action is requested on July 26, 2006 to avoid impact to project schedules.

#### BACKGROUND:

Park Authority Board policy requires the Director to obtain Park Authority Board approval for construction contracts over \$100,000. In accordance with the *Fairfax County Purchasing Resolution*, the contracts are then submitted to the Board of Supervisors for final approval.

At times, it is desirable to award contracts during the August recess rather than wait until September when the Boards reconvene. For example, the Board of Supervisors annually authorizes the County Executive to approve construction contracts over \$100,000 during the Board of Supervisor's recess. The Board of Supervisors will approve this authorization on July 31, 2006.

The Director/Deputy Director will notify the Board of any contracts approved in this manner. If a contract exceeds the estimate by 10% the Park Authority Board member in the affected district and the Chairman will be notified before action is taken.

Grant opportunities may become available during the August recess of the Park Authority Board, and the Director or Deputy Director will approve grant application submissions. The Board will be notified in September of any grant application submissions made during the August recess. If the Board subsequently does not approve an application made in August, it will be withdrawn.

Board Agenda Item  
July 26, 2006

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

None

STAFF:

Michael A. Kane, Director

Timothy K. White, Chief Operating Officer

Miriam Morrison, Director, Administration

Lynn Tadlock, Director, Planning and Development

John Lehman, Manager, Project Management Branch

Sue Frinks, Supervisor, Purchasing

Board Agenda Item  
July 26, 2006

**ACTION - 6**

2007 General Assembly

RECOMMENDATION:

The Park Authority Director recommends that the Park Authority Board approve the two submissions to the County Executive for inclusion in the draft County legislative program for the 2007 Virginia General Assembly as presented to and reviewed by the Administration, Management and Budget Committee on July 12, 2006.

ENCLOSED DOCUMENTS:

Attachment 1: Revised Legislative Initiative Form, to reflect addition of EQAC as an organization that may be in support of this legislation.

STAFF:

Michael A. Kane, Director  
Timothy K. White, Chief Operating Officer  
Elisa Lueck, Manager of Strategic Initiatives and Policy Development  
Charles Bittenbring, Director, Park Services Division  
Miriam Morrison, Director, Administration Division  
Sue Frinks, Supervisor, Purchasing Branch, Administration Division

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# LEGISLATIVE INITIATIVE FORM

(Completed form to be provided to the Board's Legislative Committee)

## GENERAL SUBJECT AREA -- TITLE OF PROPOSAL

Environmentally preferable products

### PROPOSAL: *(Provide a brief description of the proposal)*

Initiate legislation to amend VA Code 2.2-4301, 2.2-4303, and 2.2-4313 to encourage the purchase of environmentally preferable products.

### SOURCE: *(Provide the name of the agency, board, or commission generating the proposal and the date of the proposal)*

Fairfax County Park Authority  
July 26, 2006

### **BACKGROUND:**

On June 9, 2004, the Fairfax County Park Authority Board, with approval from Cathy Muse in the Department of Purchasing and Supply Management, established a Green Procurement Policy (Policy 512) for the Park Authority. This policy provides guidelines on environmentally friendly purchasing for goods, services and construction.

#### **Policy 512 Green Procurement**

The Fairfax County Park Authority will integrate environmental considerations into all aspects of purchasing goods, services and construction in a manner that will best support the environment while being cost effective to the citizens of the county and park patrons.

All purchases of goods and services and construction should:

1. Be durable, repairable, recyclable or recycled and cost effective.
2. Have a minimum of packaging, toxic content or chemical hazard potential.
3. Be as environmentally friendly as possible and still be effective.
4. Be as efficient as possible in the use of raw materials throughout the product's entire lifecycle.
5. Take into account the varying operations and facilities present within the Park Authority.
6. Minimize or eliminate the Park Authority's environmental liability.

All contracts shall be awarded pursuant to the Fairfax County Purchasing Resolution.

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*Adopted June 9, 2004*

The Board of Supervisors' Environmental Subcommittee has expressed a desire for a greater recycling effort by County Agencies. Although current legislation provides for the purchase of recycled materials, that same legislation excludes packaging and containers as well as other toxic goods and services.

**RECOMMENDATION:**

*(Do not fill out-- This will be indicated by the Legislative Director and County Executive)*

## **LEGISLATIVE INITIATIVE INFORMATION SHEET**

**(Supplemental background information to be used by staff to pursue actual legislation)**

**PROPOSED NEW OR REVISED STATUTORY LANGUAGE:**

*(Indicate actual wording change to Va. Code; use Code citation and please indicate whether you have had the County Attorney's office review the proposed new or revised statutory language; specific Code language can be copied from the web by typing the specific Section number at: <http://leg1.state.va.us/000/src.htm>)*

René Faulkner-MacDonagh of the County Attorney's Office has reviewed this proposal.

1. Add language to § 2.2-4301. Definitions. to include the definition of "environmentally preferable products" as follows:

**§ 2.2-4301. Definitions.**

As used in this chapter:

"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.

"Best value," as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

"Competitive negotiation" is a method of contractor selection that includes the following elements:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.

2. Public notice of the Request for Proposal at least 10 days prior to the date set for receipt of proposals by posting in a public area normally used for posting of public notices and by publication in a newspaper or newspapers of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites. Effective July 1, 2002, publishing by state agencies, departments and institutions on the public Internet procurement website designated by the Department of General Services shall be required. In addition, proposals may be solicited directly from potential contractors.

3. a. Procurement of professional services. The public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the public body shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, a public body may award contracts to more than one offeror.

Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

A contract for architectural or professional engineering services relating to construction projects may be negotiated by a public body, for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this paragraph, whichever occurs first. For state public bodies, such contract, except those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner may be renewable for four additional one-year terms at the option of the public body. For local public bodies, such contract may be renewable for two additional one-year terms at the option of the public body. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) except those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner, the sum of all projects performed in one contract term shall not

exceed \$500,000 or, in the case of a state agency, as defined in § 2.2-4347, such greater amount as may be determined by the Director of the Department of General Services, not to exceed \$1 million, except that in any locality or any authority or sanitation district with a population in excess of 80,000, the sum of all such projects shall not exceed \$1 million; and (c) except those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner, the project fee of any single project shall not exceed \$100,000 or, in the case of a state agency, such greater amount as may be determined by the Director of the Department of General Services not to exceed \$200,000, except that in any locality or any authority or sanitation district with a population in excess of 80,000, such fee shall not exceed \$200,000. Any unused amounts from the first contract term shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the public body has established procedures for distributing multiple projects among the selected contractors during the contract term. For contracts for environmental location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner, the sum of all projects in one contract term shall not exceed \$2 million and such contract may be renewable for two additional one-year terms at the option of the Commissioner.

Multiphase professional services contracts satisfactory and advantageous to the Department of Transportation for environmental, location, design and inspection work regarding highways and bridges may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases.

Multiphase professional services contracts satisfactory and advantageous to a local public body for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the local public body shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of such public body require awarding the contract.

b. Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

"Competitive sealed bidding" is a method of contractor selection, other than for professional services, which includes the following elements:

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the public body has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an Invitation to Bid may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

2. Public notice of the Invitation to Bid at least 10 days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of general circulation, or both. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites. Effective July 1, 2002, posting by state agencies, departments and institutions on the public Internet procurement website designated by the Department of General Services shall be required. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

3. Public opening and announcement of all bids received.

4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the Invitation to Bid, awards may be made to more than one bidder.

"Construction" means building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

"Design-build contract" means a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.

"Environmentally preferable products," means products that have fewer or reduced negative impacts on human health or the environment compared to competing products that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, operation, maintenance, reuse and disposal of the product.

In making a determination on environmentally preferable products these factors should be considered:

- Durable, repairable, recyclable or recycled and cost effective.
- Have a minimum of packaging, toxic content or chemical hazard potential.
- Be as environmentally friendly as possible and still be effective.
- Be as efficient as possible in the use of raw materials throughout the products entire lifecycle.
- Take into account the varying operations and facilities present
- Minimize or eliminate environmental liability.

"Goods" means all material, equipment, supplies, printing, and automated data processing hardware and software.

"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

"Nonprofessional services" means any services not specifically identified as professional services in the definition of professional services.

"Potential bidder or offeror" for the purposes of §§ 2.2-4360 and 2.2-4364 means a person who, at the time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. "Professional services" shall also include the services of an economist procured by the State Corporation Commission.

"Public body" means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this chapter.

"Public contract" means an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the Invitation to Bid.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

"Sheltered workshop" means a work-oriented rehabilitative facility with a controlled working environment and individual goals that utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.

(1982, c. 647, § 11-37; 1984, cc. 279, 764; 1985, c. 164; 1987, cc. 176, 218, 474; 1989, cc. 309, 323; 1991, c. 559; 1996, cc. 460, 683; 2000, cc. 621, 638, 643, 644, 647, 665, 692, 703; 2001, cc. 395, 675, 844; 2003, cc. 185, 644, 895, 994, 1006; 2004, c. 458; 2006, c. 206.)

2. Add language to Section 2.2-4303 of the Code of Virginia, as follows:

§ ~~2.2-4303~~. Methods of procurement.

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

B. Professional services shall be procured by competitive negotiation.

C. Upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

Upon a written determination made in advance by (i) the Governor or his designee in the case of a procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local governing body in the case of a procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subdivision 3 b of the definition of "competitive negotiation" in § 2.2-4301. The basis for this determination shall be documented in writing.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

1. By the Commonwealth, its departments, agencies and institutions on a fixed price design-build basis or construction management basis under § 2.2-4306;

2. By any (a) public body for the construction, alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than \$1 million and (b) local governing body on a fixed price design-build basis or construction management basis under § 2.2-4308 when the contract is not expected to cost more than \$1 million;

3. By any public body for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property;

4. By any governing body of a locality with a population in excess of 100,000 that the Design-Build/Construction Management Review Board has made a one-time determination that the locality has the personnel, procedures, and expertise to enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis, provided that projects undertaken by the local governing body shall be exempt only from approval of the Design-Build/Construction Management Review Board and shall otherwise be in compliance with the provisions of this section, § 2.2-4308, and other applicable law governing design-build or construction management contracts for public bodies other than the Commonwealth. The procedures of the local governing body shall be consistent with the two-step competitive negotiation process established in § 2.2-4301; or

5. As otherwise provided in § 2.2-4308.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without

competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The public body shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The public body shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites.

G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable. Purchases under this subsection that are expected to exceed \$30,000 shall require the written informal solicitation of a minimum of four bidders or offerors.

H. A public body may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed \$30,000; however such small purchase procedures shall provide for competition wherever practicable.

I. Upon a determination made in advance by a public body and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. Purchase of information technology and telecommunications goods and nonprofessional services from a public auction sale shall be permitted by any authority, department, agency, or institution of the Commonwealth if approved by the Chief Information Officer of the Commonwealth. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

J. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

K. Upon determination made in advance by the local governing body and set forth in writing the use of environmentally preferable products is in the best interests of the public, such methods may be used.

(1982, c. 647, § 11-41; 1985, c. 164; 1986, cc. 332, 559; 1987, c. 456; 1988, cc. 40, 640; 1989, c. 296; 1991, c. 73; 1993, c. 242; 1996, cc. 827, 965, 1019; 1999, c. 178; 2000, cc. 637, 647, 664, 692; 2001, cc. 395, 844; 2003, cc. 644, 895; 2004, cc. 706, 874, 906; 2005, c. 394; 2006, cc. 464, 510.)

3. Add language to Section 2.2-4313 of the Code of Virginia, as follows:

§ 2.2-4313. Petition for recycled goods and products; periodic review of procurement standards.

A. Any person who believes that particular goods or products with recycled content are functionally equivalent to the same goods or products produced from virgin materials may petition the Department of General Services or other appropriate agency of the Commonwealth to include the recycled goods or products in its procurement process. The petitioner shall submit, prior to or during the procurement process, documentation that establishes that the goods or products (i) contain recycled content and (ii) can meet the performance standards set forth in the applicable specifications. If the Department of General Services or other agency of the Commonwealth that receives the petition determines that the documentation demonstrates that the goods or products with recycled content will meet the performance standards set forth in the applicable specifications, it shall incorporate the goods or products into its procurement process.

B. The Department of General Services and all agencies of the Commonwealth shall review and revise their procurement procedures and specifications on a continuing basis to encourage the use of goods and products with recycled content and shall, in developing new procedures and specifications, encourage the use of goods and products with recycled content.

C. The Department of General Services and all agencies of the Commonwealth shall review and revise their procurement procedures and specifications on a continuing basis to encourage environmentally preferable products.

D. Assign appropriate personnel to fulfill the requirements of this policy.

E. Prepare bid documents and contract language where necessary for implementation.

F. Collect data on purchases by departments of recycled and other environmentally preferable products and prepare and submit a report each year by August 1 to the main purchasing authority describing the progress of departments in implementation of environmental purchasing, including the following elements:

1. Quantities, costs and types of recycled and other environmentally preferable products purchased.

2. A summary of the savings achieved through the purchase of recycle and other environmentally preferable products.

3. A summary of program promotional efforts.

G. Exemptions:

Nothing in the Code shall be construed as requiring the Department of General Services and all agencies of the Commonwealth department or contractor to procure products that do not perform adequately for their intended end use or are not available at a reasonable price in a reasonable period of time.

(1993, c. 223, § 11-41.01; 2001, c. 844.)

**ADDITIONAL BACKGROUND INFORMATION:**

*(Additional information may be necessary to fully develop the idea. Please assume that government relations staff may need additional technical information to fully explain the proposal and the necessity for the proposal.)*

**RELATED FEDERAL OR STATE STATUTES OR REGULATIONS, OR ANY PERTINENT COURT DECISIONS OR LEGAL OPINIONS:**

*(Self-explanatory, the latter is particularly important)*

- The above cited language was based on the State of Connecticut: *An Act Establishing A Comprehensive Policy for the Purchase of Environmentally Preferable Products by State Agencies and Making Adjustments to Recycling and Mileage Requirements.*
- **Public Contract Code Section 12400—Environmentally Preferable Purchasing**  
This law, formerly known as AB 498 (Chan, Chapter 575, Statutes of 2002), addresses environmentally preferable purchasing and became California law in September 2002. It directs the Department of General Services, in consultation with the California Environmental Protection Agency, members of the public, industry, and public health and environmental organizations, to provide state agencies with information and assistance regarding environmentally preferable purchasing.
- **Electronic Waste Recycling Act of 2003**  
**Covered Electronic Waste Payment System** (SB 20/SB 50)  
California enacted landmark legislation [SB 20 (Sher, Chapter 526, Statutes of 2003) and SB 50 (Sher, Chapter 863, Statutes of 2004)] to establish a funding system for the collection and recycling of certain electronic wastes. Procurement-related elements of the act include provisions for a reduction in hazardous substances used in certain electronic products sold in California and a directive to recommend environmentally preferred purchasing criteria for State agency purchases of certain electronic equipment

**ANY APPROPRIATE ANALYSES, FINANCIAL ESTIMATES, STATISTICS:**

*(Provide any local, state or national information that would be helpful in persuading legislators as to the merits of the proposal; this is key technical information)*

N/A

**PROS/CONS OF THE ISSUE:**

*(Why would a legislator want to support the proposal, what reasons would he/she give for*

opposing the proposal)

Environmentally preferable products protect natural resources and have a lesser or reduced effect on human health and the environment when compared with competing products. Such products minimize waste, conserve energy, and conserve raw materials and water. Additionally, these products cut down on landfill space.

**POSSIBLE SUPPORT OR OPPOSITION BY ORGANIZATIONS:**

*(List any organizations or groups, if any, which might be in favor of or against the proposed legislative change)*

Organizations and groups that may be in favor:

Department of Purchasing and Supply Management Branch  
Department of Public Works and Environmental Services  
Fairfax County Employees Recycling Committee  
Fairfax County Park Authority Board  
Fairfax County Board of Supervisors  
Environmental Quality Advisory Council (EQAC)  
Center for New American Dream <http://www.newdream.org/>

Organizations or groups that may be against the proposed change:

No known organizations or groups

**STAFF CONTACT PERSON(S):**

*(Provide name and phone number of County staff person(s) best able to assist in any further necessary research or best able to provide "expert testimony" at a General Assembly committee, if deemed necessary by County legislative staff)*

Sue Frinks, Fairfax County Park Authority, Purchasing Branch, 324-8758

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**ACTION - 7**

Scope Approval – Reconstruction of the Access Road at Wakefield Park (Braddock District)

**RECOMMENDATION:**

The Park Authority Director recommends approval of the project scope to reconstruct the access road at Wakefield Park as presented to and reviewed by the Planning and Development Committee on July 12, 2006.

**ACTION - 8**

Scope Approval – Hidden Oaks Nature Center Low Impact Development Parking Lot (Mason District)

**RECOMMENDATION:**

The Park Authority Director recommends approval of the project scope to design and construct a 20-space LID parking lot to replace the existing 4-space asphalt parking lot at Hidden Oaks Nature Center as presented to and reviewed by the Planning and Development Committee on July 12, 2006.

**ACTION - 9**

Approval - Placement of Memorial Plaque at McLean Central Park (Dranesville District)

**RECOMMENDATION:**

The Park Authority Director recommends approval of the placement of a 10" x 12" memorial plaque set on a flat concrete base behind and between two benches near the tot lot at McLean Central Park as presented to and reviewed by the Planning and Development Committee on July 12, 2006.

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## **ACTION - 10**

### Approval – 2006 Park Authority Bond Program

#### ISSUE:

Approval of the categorical distribution of funds from the 2006 Park Authority Bond, program criteria for land acquisition and synthetic turf fields, trail program project list, and the associated program information for public distribution.

#### RECOMMENDATION:

The Park Authority Director recommends that the Park Authority Board approve the categorical distribution of funds in the amount of \$10,000,000 for land acquisition, \$10,000,000 for synthetic turf fields, and \$5,000,000 for trails; the program criteria for land acquisition and synthetic turf fields; the trail program project list; and the associated Bond program information for public distribution, as approved by the Funding Policy and Bond Committee on July 26, 2006.

#### TIMING:

Board action is requested on July 26, 2006 to prepare for the distribution of materials to the public.

#### BACKGROUND:

January 25, 2006 - The Park Authority requested a 2006 Bond to support land acquisition, synthetic turf fields and trails in a memo to the Chairman of the Board of Supervisors. Total bond funding requested was \$28,000,000.

May 1, 2006 - The Board of Supervisors approved the Fiscal Year 2007 County Budget and Chairman Connolly requested a 2006 Park Authority Bond.

May 10, 2006 - The Park Authority Board concurred with the recommended allocation of Bond funds in the amounts of \$10,000,000; \$10,000,000 and \$5,000,000 for the use of land acquisition, synthetic turf fields and trails, respectively.

June 5, 2006 - The Board of Supervisors approved \$25,000,000 for a fall 2006 Park Authority Bond.

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July 26, 2006 - The Funding Policy and Bond Committee approved the allocation of Bond funds in the amounts of \$10,000,000; \$10,000,000 and \$5,000,000 for the use of acquisition, synthetic turf fields and trails, respectively.

The Committee also approved:

1. Criteria for determining the land acquisition program target sites. These are:
  - Areas of high deficiency
  - Lands adjacent to existing parks that will expand recreational opportunities
  - Lands to protect significant natural and cultural resources
2. Criteria to identify fields that would be priority candidates for conversion to synthetic turf. The fields to be selected would be those that most closely meet the program criteria. The approved criteria are:
  - Existing rectangular fields\*\*
  - Minimum playing surface size of 370' x 190'
  - Currently lighted, or master plan approval for lighting exists
  - Conversion would require minimal site work and/or amenity improvements
  - Can be permitted by Department of Public Works and Environmental Services through a minor site plan or rough grading permit (RGP)
  - Geographically distributed throughout the County
  - Reduce rectangular field deficiencies identified in the 2004 Park Authority Needs Assessment

\*\* Any construction of synthetic turf fields on property owned by Fairfax County Public Schools will require a long-term agreement that addresses the construction, community use, maintenance, and eventual replacement of the field.

3. The top 10 staff recommended trail projects as presented to the Committee.

FISCAL IMPACT:  
None

ENCLOSED DOCUMENTS:  
None. Distributed at the July 26, 2006 Funding Policy and Bond Committee meeting.

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STAFF:

Michael A. Kane, Director

Timothy K. White, Chief Operating Officer

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## **INFORMATION - 1**

### Extension of Lease of Quarry to Vulcan Materials Company (Mount Vernon District)

The National Park Service transferred property formerly owned by the District of Columbia to the Fairfax County Park Authority under the Federal Lands to Parks Program. At the time the property was transferred, Vulcan Materials Company (referred to as Vulcan hereafter) had current leases to use the entire property (approximately 115 acres) which was part of the Lorton Correctional Complex, as a rock quarry. The lease on approximately 55 acres was executed between the District of Columbia and Vulcan on July 10, 1981, and the Park Authority became landlord under the existing lease when the Park Authority assumed ownership of the property.

The leased premises under the 1981 lease agreement consist of three parcels: the 0.992 acre parcel, the 21.123 acre parcel, and the 32.78 acre parcel. The term of the lease for the 32.78 acre parcel is 40 years and will expire on July 9, 2021. The term of the lease for the 0.992 acre parcel and 21.123 acre parcel was 20 years, and expired on July 9, 2001. Vulcan has been paying rent as a holdover tenant on these two parcels and would like to extend the term of the lease agreement. These properties will be exchanged for properties that are more suitable for park purposes in the near future, in accordance with the Park Authority's Program of Utilization which was established when the properties were transferred to the Park Authority under the Federal Lands to Parks Program.

Unless otherwise directed, staff will proceed to work with the County Attorney's Office on a lease extension agreement and the Park Authority Director will execute this extension agreement with Vulcan.

#### ENCLOSED DOCUMENTS:

None. (Distributed at the July 12, 2006 Planning and Development Committee meeting).

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STAFF:

Michael A. Kane, Director

Timothy K. White, Chief Operating Officer

Lynn S. Tadlock, Director, Planning and Development Division

Kay H. Rutledge, Manager, Land Acquisition and Management Branch

Mike Lambert, Right-of-Way Agent, Land Acquisition and Management Branch

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## **INFORMATION - 2**

### 2006-2010 Strategic Plan

The draft 2006-2010 Strategic Plan was distributed to the Strategic Planning and Initiatives Committee members and the full Board on July 12, 2006. At the July 26, 2006 meeting, staff received comments on the draft plan document and received feedback from the Strategic Planning and Initiatives Committee on outreach efforts (timing, audience, etc.).

**Unless otherwise directed, staff will proceed to share the draft plan document with stakeholders under the terms discussed and agreed to in the Strategic Planning and Initiatives Committee meeting on July 26, 2006.**

### ENCLOSED DOCUMENTS:

None.

### STAFF:

Michael A. Kane, Director

Timothy K. White, Chief Operating Officer

Elisa Lueck, Manager of Strategic Initiatives and Policy Development

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### **INFORMATION - 3**

#### Laurel Hill Sportsplex Proposal - Fiscal and Business Plan Analysis Schedule (Mount Vernon District)

At the direction of the Board, staff has obtained independent consultant support for fiscal analysis of the Laurel Hill Sportsplex PPEA proposal. Related to that work the following near term actions are anticipated:

- |         |  |
|---------|--|
| July 26 | Preliminary report by consultant PFM to Park Authority Board of financial analysis of Sportsplex pro forma. Discussion of next analysis steps and options.   |
| August  | Complete analysis of financial and utilization assumptions and values  |
| Sept 13 | Final report by consultant PFM of financial analysis of Sportsplex pro forma and recommendation by staff for Park Authority Board action to negotiate conceptual agreement with proposer.                        |
| Sept 27 | Recommendation by staff for Park Authority Board action for assorted planning, design and permitting activities associated with Sportsplex development. Report to the Park Authority Board on status of project. |

#### STAFF:

Michael A. Kane, Director  
Timothy K. White, Chief Operating Officer  
Lynn S. Tadlock, Director, Planning and Development Division  
Kirk Holley, Manager, Special Projects Branch  
Bob Betsold, Section Supervisor, Special Projects Branch

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